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Shinde, Shri Annasaheb P. (Ahmednagar)
Shivappa, Shri N. (Hassan)
Shivnath Singh, Shri (Jhunjhunu)
Shukla, Shri B. R. (Bahraich)
Shukla, Shri Vidya Charan (Raipur)
Siddayya, Shri S. M. (Chamarajanagar)
Siddheshwar Prasad, Prof. (Nalanda)
Singh, Shri D. N. (Hajipur)
Singh, Shri Vishwanath Pratap (Phulpur)
Sinha, Shri C. M. (Mayurbhanj)
Sinha, Shri Dharam Bir (Barh)

Sinha, Shri Nawal Kishore (Muzaffarpur)

Sinha, Shri R. K. (Faizabad)

Sinha, Shri Satyendra Narayan (Aurangabad)

Sivaswamy, Shri M. S. (Tiruchendur)

Sohan Lal, Shri T. (Karol Bagh)

Sokhi, Sardar Swaran Singh (Jamshedpur)

Solanki, Shri Pravinsinh (Anand)

Solanki, Shri Somchand (Gandhinagar)

Somasundaram, Shri S. D (Thanjavur)

Stephen, Shri C. M. (Muvattupuzha)

Subramaniam, Shri C (Krishnagiri)

Subravelu, Shri (Mayuram)

Sudarsanam, Shri M (Narasaraopet)

Sunder Lal, Shri (Saharanpur)

Surendra Pal Singh, Shri (Bulandshahr)

Suryanarayana, Shri K. (Eluru)

Swaminathan, Shri R V. (Madurai)

Swamy, Shri Sidrameshwar (Koppal)

Swaran Singh, Shri (Jullundur)

Swell, Shri G. G. (Autonomous Districts)

T

Tarodekar, Shri V B (Nanded)

Tayyab Hussain, Shri (Gurgaon)

Tewari, Shri Shankar (Etawah)

Thakre, Shri S B. (Yeotmal)

Thakur, Shri Krishnarao (Chimur)

Thevar, Shri P K M (Ramanathapuram)

Tiwari, Shri Chandra Bhal Mani (Balrampur)

Tiwari, Shri R. G. (Bilaspur)

Tiwary, Shri D. N. (Gopalganj)

Tombi Singh, Shri N (Inner Manipur)

Tula Ram, Shri (Ghatampur)

Tulsiram, Shri V. (Peddapalli)

U

Uikey, Shri M G (Mandla)

Ulaganambi, Shri R. P (Vellore)

Unnikrishnan, Shri K. P. (Badagara)

V

Vajpayee, Shri Atal Bihari (Gwalior)

Veeriah, Shri K (Pudukkottai)

Vekaria, Shri (Junagadh)

Venkatasubbaiah, Shri P (Nandyal)

Venkatswamy, Shri G (Siddipet)

Verma, Shri Balgovind (Kheri)

Verma, Shri Phool Chand (Ujjain)

Verma, Shri Sukhdeo Prasad (Nawada)

Vidyalankar, Shri Amarnath (Chandigarh)

Vijay Pal Singh, Shri (Muzaffarnagar)

Vikal, Shri Ram Chandra (Baghpat)

Virbhadra Singh, Shri (Mandi)

Viswanathan, Shri G (Wandiwash)

Y

Yadav, Shri Chandrajit (Azamgarh)

Yadav, Shri D P. (Monghyr)

Yadav, Shri G. P (Katihar)

Yadav, Shri Karan Singh (Budaun)

Yadav, Shri N P (Sitamarhi)

Yadav, Shri R P (Madhepura)

Yadav Shri Shiv Shanker Prasad (Khagaria)

Z

Zulfiquar Ali Khan, Shri (Rampur)

LOK SABHA

The Speaker

Shri B. R. Bhagat

The Deputy-Speaker

Shri G. G. Swell

Panel of Chairmen

Shri Bhagwat Jha Azad

Shri Ishaque Sambhali

Shri Vasant Sathe

Shri C. M. Stephen

Shri G. Viswanathan

Shri P. Parthasarathy

Secretary-General

Shri S. L. Shakdher

GOVERNMENT OF INDIA

MEMBERS OF CABINET

The Prime Minister, Minister of Planning, Minister of Atomic Energy, Minister of Electronics and Minister of Space	Shrimati Indira Gandhi
The Minister of External Affairs	Shri Y. B. Chavan
The Minister of Agriculture and Irrigation	Shri Jagjivan Ram
The Minister of Railways	Shri Kamlapati Tripathi
The Minister of Defence	Shri Bansi Lal
The Minister of Shipping and Transport	Dr. G S. Dhillon
The Minister of Law, Justice and Company Affairs	Shri H R. Gokhale
The Minister of Petroleum	Shri Keshav Dev Malaviya
The Minister of Industry	Shri T. A. Pai
The Minister of Works and Housing and Parliamentary Affairs	Shri K Raghu Ramaiah
The Minister of Tourism and Civil Aviation	Shri Raj Bahadur
The Minister of Home Affairs	Shri K Brahmananda Reddy
The Minister of Chemicals and Fertilizers	Shri P. C. Sethi
The Minister of Communications	Shri Shanker Dayal Sharma
The Minister of Health and Family Planning	Dr. Karan Singh
The Minister of Finance	Shri C Subramaniam
The Minister of Civil Supplies and Cooperation	Shri Syed Mir Qasim

MINISTERS OF STATE IN-CHARGE OF MINISTRIES/DEPARTMENTS

The Minister of Commerce	Prof D P Chattopadhyaya
The Minister of Supply and Rehabilitation	Shri Ram Niwas Mirdha
The Minister of Education, Social Welfare and Culture	Prof S Nurul Hassan
The Minister of Energy	Shri K. C Pant
The Minister of Labour	Shri K. V. Raghunatha Reddy
The Minister of State of Information and Broadcasting	Shri Vidya Charan Shukla
The Minister of Steel and Mines	Shri Chandrajit Yadav

MINISTERS OF STATE

The Minister of State in the Ministry of Civil Supplies and Cooperation	Shri A. C. George
The Minister of State in the Ministry of Works and Housing	Shri H. K. L. Bhagat
The Minister of State in the Ministry of Health and Family Planning	Chowdhury Ram Sewak
The Minister of State in the Ministry of Planning	Shri Sankar Ghose
The Minister of State in the Ministry of Agriculture and Irrigation	Shri Shah Nawaz Khan
The Minister of State in the Ministry of Industry	Shri B. P. Maurya
The Minister of State in the Ministry of Home Affairs, Department of Personnel and Administrative Reforms and Department of Parliamentary Affairs	Shri Om Mehta
The Minister of State (Defence Production) in the Ministry of Defence	Shri Vithal Gadgil
The Minister of State in-charge of the Department of Revenue and Banking	Shri Pranab Kumar Mukherjee
The Minister of State in the Ministry of Law, Justice and Company Affairs	Dr. V. A. Seyid Muhammad
The Minister of State in the Ministry of Railways	Shri Mohd. Shafi Qureshi
The Minister of State in the Ministry of Industry	Shri Anant Prasad Sharma
The Minister of State in the Ministry of Agriculture and Irrigation	Shri Annasaheb P. Shinde
The Minister of State in the Ministry of Tourism and Civil Aviation	Shri Surendra Pal Singh
The Minister of State in the Ministry of Shipping and Transport	Shri H. M. Trivedi

DEPUTY MINISTERS

The Deputy Minister in the Ministry of Petroleum	Shri Ziaur Rahman Ansari
The Deputy Minister in the Ministry of Law, Justice and Company Affairs	Shri Bedabrata Barua
The Deputy Minister in the Ministry of External Affairs	Shri Bipinpal Das
The Deputy Minister in the Ministry of Health and Family Planning	Shri A. K. M. Ishaque

The Deputy Minister in the Ministry of Chemicals and Fertilizers	Shri C. P. Majhi
The Deputy Minister in the Ministry of Home Affairs	Shri F. H. Mohsin
The Deputy Minister in the Ministry of Education and Social Welfare and in the Department of Culture	Shri Arvind Netam
The Deputy Minister in the Ministry of Communications	Shri Jagannath Pahadia
The Deputy Minister in the Ministry of Agriculture and Irrigation	Shri Prabhudas Patel
The Deputy Minister in the Ministry of Defence	Shri Janaki Ballav Patnaik
The Deputy Minister in the Department of Parliamentary Affairs	Shri B. Shankaranand
The Deputy Minister in the Ministry of Energy	Prof. Siddheshwar Prasad
The Deputy Minister in the Ministry of Steel and Mines	Shri Sukhdev Prasad
The Deputy Minister in the Ministry of Finance	Shrimati Sushila Rohatgi
The Deputy Minister in the Ministry of Railways	Shri Buta Singh
The Deputy Minister in the Ministry of Shipping and Transport	Shri Dalbir Singh
The Deputy Minister in the Ministry of Agriculture and Irrigation	Shri Kedar Nath Singh
The Deputy Minister in the Ministry of Commerce	Shri Vishwanath Pratap Singh
The Deputy Minister in the Ministry of Information and Broadcasting	Shri Dharam Bir Sinha
The Deputy Minister in the Ministry of Supply and Rehabilitation	Shri G. Venkat Swamy
The Deputy Minister in the Ministry of Labour	Shri Balgovind Verma
The Deputy Minister in the Ministry of Education and Social Welfare and in the Department of Culture	Shri D. P. Yadav

LOK SABHA DEBATES

Vol. LXV First day of the Eighteenth Session of the Fifth Lok Sabha No. 1

LOK SABHA

Monday, October 25, 1976/Kartika 3, 1898 (Saka)

The Lok Sabha met at Eleven of the Clock

[MR. SPEAKER *in the Chair*]

OBITUARY REFERENCES

MR SPEAKER: Hon. Members, I have to inform the House of the sad demise of three of our former colleagues *namely* Sardar Sochet Singh, Shri Surendra Mohan Ghose and Shri Tulsidas Kilachand

Sardar Sochet Singh was a Member of the Constituent Assembly and Provisional Parliament during the years 1949—52 representing the erstwhile Patiala and East Punjab States Union. A highly cultured man, Sardar Sochet Singh, prior to his coming to the Legislature held several executive and judicial posts in Kapurthala State. He passed away at Chandigarh on the 31st August, 1976 at the age of 70

Shri Surendra Mohan Ghose was a Member of the Constituent Assembly, Provisional Parliament and First Lok Sabha during the years 1947—56. Later he was a Member of Rajya Sabha during the years 1956—68. A great revolutionary leader of Bengal, he had the first brush with politics at the age of 18 when he started recruiting workers for Sadhna Samaj, a revolutionary organisation, and helping them by providing shelter and arms and ammunition. Shri Ghose participated in the freedom movement with great courage and spent more than two decades in jail during British rule A close associate of Netaji Subhas Chandra Bose, Shri Ghose was deported to Mandalay jail in Burma in 1924 and was imprisoned there from 1924 to 1927 along with Netaji. He was influenced greatly in thought and action by the philosophy of Shri Aurobindo Ghosh and Mahatma Gandhi and strove throughout his life to achieve the ideal of human unity, abolition of caste system and emancipation of women. An ardent patriot, Shri Ghose played a significant role in the development and transformation of the country specially during the post-independence period and his services to the nation will be long remembered During his parliamentary career, he was Chairman of the House Committee during 1950—52 and a delegate to the Tenth Commonwealth Parliamentary Conference held at Kingston, Jamaica in 1964 He passed away at New Delhi on the 7th September, 1976 at the age of 83

Shri Tulsidas Kilachand was a Member of the First Lok Sabha from Mehsana West Constituency of the erstwhile Bombay State during the years 1952—57 A very cultured and amiable person, he used to take active interest in the proceedings of the House and served on many Parliamentary Committees He was a noted industrialist and was associated with a number of industrial concerns and banking institutions He led the Official Trade delegation to Japan in 1947 and was President of the Federation of Indian Chambers of Commerce and Industry during the years 1950-51. He died at Atlanta, USA on the 21st October, 1976 at the age of 70.

We deeply mourn the loss of these friends and I am sure the House will join me in conveying our condolences to the bereaved families.

The House may stand in silence for a short while to express its sorrow.

The Members then stood in silence for a short while

11.06 hrs.

PAPERS LAID ON THE TABLE

ELECTRICITY (SUPPLY) AMENDMENT ORDINANCE

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I beg to lay on the Table a copy of the Electricity (Supply) Amendment Ordinance, 1976 (No. 13 of 1976) Hindi and English versions) promulgated by the President on the 8th October, 1976, under article 123(2) (a) of the Constitution. [*Placed in Library. See* No. LT-11361/76]

WATER (PREVENTION AND CONTROL OF POLLUTION) SECOND AMENDMENT RULES, 1976 AND NOTIFICATIONS UNDER TAMIL NADU SLUM AREAS (IMPROVEMENT AND CLEARANCE) ACT, 1971

THE MINISTER OF STATE IN THE MINISTRY OF WORKS AND HOUSING (SHRI H. K L. BHAGAT): I beg to lay on the Table—

(1) A copy of the Water (Prevention and Control of Pollution) Second Amendment Rules 1976 (Hindi and English versions) published in Notification No. G.S.R. 1260 in Gazette of India dated the 28th August, 1976, under sub-section(3) of section 63 of the Water (Prevention and Control of Pollution) Act. 1974. [*Plactd in Library See* No. LT-11362/76]

(2) A copy each of the following Notifications under sub-section(2) of section 70 of the Tamil Nadu—Slum areas provement and Clearance) Act, 1971 read with clause (c) (iv) of the Proclamation dated the 31st January, 1976 issued by the President in relation to the State of Tamil Nadu together with an explanatory memorandum:—

(i) S. R. O./A-214/76 published in Tamil Nadu Government Gazette dated the 30th June, 1976 making certain amendments to the Tamil Nadu Slum Clearance Board (Remunerative Enterprises) Rules, 1972.

(ii) The Tamil Nadu Slum Clearance Board (Manner of Operation of Accounts) Rules, 1976, published in Notification No. S. R. O./ A-225/76 in Tamil Nadu Government Gazette dated the 14th July, 1976. (Placed in Library. See No. LT-11363/76)

FIFTH FIVE YEAR PLAN, 1974—79

THE MINISTER OF STATE IN THE MINISTRY OF PLANNING (SHRI SANKAR GHOSE): I beg to lay on the Table a copy of the "Fifth Five Year Plan 1974—79" (Hindi and English versions). [*Placed in Library. See* No. LT-11364/76]

ANNUAL REPORT OF DEVELOPMENT COUNCIL FOR FOOD PROCESSING INDUSTRIES FOR 1975-76

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (SHRI B P MAURYA): I beg to lay on the Table a copy of the Annual Report (Hindi and English versions) of the Development Council for Food Processing Industries for the year 1975-76, under sub-section (4) of section 7 of the Industries (Development and Regulation) Act. 1951. [*Placed in Library. See* No. LT-11365/76]

NOTIFICATIONS UNDER ALL INDIA SERVICES ACT, 1951

THE MINISTER OF STATE IN THE MINISTRY OF HOME AFFAIRS, DEPARTMENT OF PERSONNEL AND

ADMINISTRATIVE REFORMS AND DEPARTMENT OF PARLIAMENTARY AFFAIRS (SHRI OM MEHTA): I beg to lay on the Table a copy each of the following Notifications (Hindi and English versions) under sub-section (2) of section 3 of the All India Services Act, 1951:—

(1) The Indian Administrative Service (Fixation of Cadre Strength) Nineteenth Amendment Regulations, 1976, published in Notification No. G.S.R. 782E in Gazette of India dated the 31st August, 1976.

(2) The Indian Administrative Service (Pay) Seventeenth Amendment Rules, 1976, published in Notification No. G.S.R. 783E in Gazette of India dated the 31st August, 1976.

(3) The Indian Administrative Service (Fixation of Cadre Strength) Eighteenth Amendment Regulations, 1976, published in Notification No. G.S.R. 788E in Gazette of India dated the 7th September, 1976.

(4) The Indian Administrative Service (Pay) Twentieth Amendment Rules, 1976, published in Notification No. G.S.R. 789E in Gazette of India dated the 7th September, 1976.

(5) The Indian Police Service (Fixation of Cadre Strength) Thirteenth Amendment Regulations, 1976, published in Notification No. G.S.R. 790E in Gazette of India dated the 7th September, 1976.

(6) The Indian Police Service (Pay) Fifteenth Amendment Rules, 1976, published in Notification No. G.S.R. 791E in Gazette of India dated the 7th September, 1976.

(7) The Indian Police Service (Fixation of Cadre Strength) Fourteenth Amendment, Regulations, 1976, published in Notification No. G.S.R. 1133 in Gazette of India dated the 18th September, 1976.

(8) The Indian Administrative Service (Probation) Third Amendment Rules, 1976, published in Notification No. G.S.R. 1330 in Gazette of India dated the 18th September, 1976.

(9) The Indian Police Service (Probation) Fourth Amendment Rules, 1976, published in Notification No. G. S. R. 1360 in Gazette of India dated the 25th September, 1976.

(10) The Indian Forest Service (Probation) Fourth Amendment Rules, 1976, published in Notification No. G.S.R. 1361 in Gazette of India dated the 25th September, 1976.

(11) The Indian Administrative Service (Fixation of Cadre Strength) Twenty-fifth Amendment Regulations, 1976, published in Notification No. G.S.R. 1367 in Gazette of India dated the 25th September, 1976.

(12) The Indian Administrative Service (Pay) Nineteenth Amendment Rules, 1976, published in Notification No. G.S.R. 1368 in Gazette of India dated the 25th September, 1976.

(13) The Indian Police Service (Fixation of Cadre Strength) Eleventh Amendment Regulations, 1976, published in Notification No. G.S.R. 1369 in Gazette of India dated the 25th September, 1976.

(14) The Indian Police Service (Pay) Twelfth Amendment Rules, 1976, published in Notification No. G.S.R. 1370 In Gazette of India dated the 25th September, 1976.

(15) The Indian Administrative Service (Fixation of Cadre Strength) Twenty-Third Amendment Regulations, 1976, published in Notification No. G.S.R. 821E in Gazette of India dated the 27th September, 1976.

(16) The Indian Administrative Service (Pay) Twenty-first Amendment Rules, 1976, published in Notification No. G.S.R. 822E in Gazette of India dated the 27th September, 1976.

(17) The Indian Administrative Service (Probation) Fourth Amendment Rules, 1976, published in Notification No. G.S.R. 1397 in Gazette of India dated the 2nd October, 1976.

[*Placed in Library. See* No LT-11366/76]

Bombay Public Trusts (Gujarat) (Amendment) Rules, 1976 with Statements for not laying in Hindi and delay and Notification Correcting Delimitation Commissions Order No. 40, dated 28-4-75 re Union Territory of Delhi

THE MINISTER OF STATE IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (DR. V A. SEYID MUHAMMAD): I beg to lay on the Table—

(1) A copy of the Bombay Public Trusts (Gujarat) (Amendment) Rules, 1976, Published in Notification No GH/K/34/BPI/Rules/20629/E in Gujarat Government Gazette dated the 15th July, 1976, under sub-section (4) 84 of the Bombay Public Trusts Act, 1950 read with clause (c) (iii) of the Proclamation dated the 12th March, 1976 issued by the President in relation to the State of Gujarat.

(2) A statement (Hindi and English versions) explaining the reasons for not laying the Hindi version of the above Notification.

(3) A statement (Hindi and English versions) showing reasons for delay in laying the above Notification.

[*Placed in Library. See* No. LT-11367/76].

(4) A copy of Notification No. S.O. 545 (E) (Hindi and English versions) published in Gazette of India dated the 12th August, 1976 making certain corrections in the Delimitation Commission's Order No. 40 dated the 28th April, 1975 in respect of the Union Territory of Delhi, under sub-section (2) of section 11 of the Delimitation Act, 1972 [*Placed in Library. See* No. LT-11288/76].

Reports under Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970

THE MINISTER OF STATE INCHARGE OF THE DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE). *(1) to re-lay on the Table a copy each of the following Reports (Hindi and English versions) under sub-section (8) of section 10 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970·—

(a) Report on the working and activities of the Central Bank of India for the year ended the 31st December, 1975 along with the Accounts and Auditor's Report thereon.

(b) Report on the working and activities of the Bank of India for the year ended the 31st December, 1975 along with the

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*The Reports were previously Laid on the Table on 10-8 76.

Accounts and the Auditor's Report thereon.

(c) Report on the working and activities of the Punjab National Bank for the year ended the 31st December, 1975, along with the Accounts and Auditor's Report thereon

(d) Report on the working and activities of the Bank of Baroda for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon

(e) Report on the working and activities of the United Commercial Bank for the year ended the 31st December, 1975, along with the Accounts and Auditor's Report thereon

(f) Report on the working and activities of the Canara Bank for the year ended the 31st December, 1975 along with the Accounts and the Auditor's Report thereon

(g) Report on the working and activities of the United Bank of India for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon

(h) Report on the working and activities of the Dena Bank for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon

(i) Report on the working and activities of the Syndicate Bank for the year ended the 31st December 1975, along with the Accounts and the Auditor's Report thereon

(j) Report on the working and activities of the Union Bank of India for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon.

(k) Report on the working and activities of the Allahabad Bank for the year ended the *31st December, 1975,* along with the Accounts and the Auditor's Report thereon

(l) Report on the working and activities of the Indian Bank for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon

(m) Report on the working and activities of the Bank of Maharashtra for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon.

(n) Report on the working and activities of the Indian Overseas Bank for the year ended the 31st December, 1975, along with the Accounts and the Auditor's Report thereon.

[*Placed in Library See* No LT-10959/76]

CENTRAL EXCISE (TWENTY-THIRD AMENDMENT) RULES 1976, INCOME-TAX (6TH AMENDMENT) RULES, 1976 NOTIFICATIONS UNDER CUSTOMS ACT 1962, AND CENTRAL EXCISE RULES 1944

THE MINISTER OF STATE IN-CHARGE OF DEPARTMENT OF REVENUE AND BANKING (SHRI PRANAB KUMAR MUKHERJEE) I beg to lay on the Table

(a) A copy of the Central Excise (Twenty third Amendment) Rules, 1976 (Hindi and English versions) published in Notification No G S R 1329 in Gazette of India dated the 11th September, 1976, under section 38 of the Central Excises and Salt Act, 1944 [*Placed in Library See* No LT-11369/76]

(b) A copy of the Income-tax (Sixth Amendment) Rules, 1976 (Hindi and English versions) published in Notification No. S.O. 615(E) in Gazette of India dated the 16th September, 1976, under section 296 of the Income-tax, Act, 1961. [*Placed in Library. See* No. LT-11370/76].

(c) A copy each of the following Notifications (Hindi and English versions) under section 159 of the Customs Act, 1962·—

(i) G.S.R. 785(E) published in Gazette of India dated the 3rd September, 1976, together with an explanatory memorandum

(ii) G S.R 1357, published in Gazette of India dated the 18th September, 1976, together with an explanatory memorandum

(iii) G S R 1358 published in Gazette of India dated the 18th September, 1976 together with an explanatory memorandom

(iv) G S R. 812(E) published in Gazette of India dated the 23rd September, 1976, together with an explanatory memorandom

(v) G S R 830(E) published in Gazette of India dated the 1st October, 1976, together with an explanatory memorandum

[*Placed in Library See* No LT-11371/76]

(d) A copy each of the following Notifications (Hindi and English versions) issued under the Central Excise Rules, 1944 —

(i) G S R 793(E) published in Gazette of India dated the 9th September 1976 and G S R 805(E) published in Gazette of India dated the 16th September, 1976, together with an explanatory memorandum.

(ii) G.S.R. 818(E) and 819(E) published in Gazette of India dated the 25th September, 1976 together with an explanatory memorandum.

[*Placed in Library. See* No. LT-11372/76].

ANNUAL REPORT OF KHADI AND VILLAGE INDUSTRIES COMMISSION, BOMBAY FOR 1974-75 WITH STATEMENT FOR DELAY

THE MINISTER OF STATE IN THE MINISTRY OF INDUSTRY (SHRI A P SHARMA) I beg to lay on the Table —

(i) A copy of the Annual Report (Hindi and English versions) of the Khadi and Village Industries Commission, Bombay, for year 1974-75 under sub-section (3) of section 24 of the Khadi and Village Industries Commission Act, 1956 along with the Statistical Statement

(ii) A statement (Hindi and English versions) showing reasons for delay in laying the above report

[*Placed in Library See* No LT 11373/76]

CENTRAL WAREHOUSING CORPORATION (3RD AMENDMENT) RULES, 1976, ANNUAL REPORTS OF CENTRAL FISHERIES CORPORATION LTD FOR 1972 73 & 1973 74, GUJARAT DEVASTHAN INAMS ABOLITION (1ST AMENDMENT) RULES, 1976, GUJARAT SURVIVING ALIENATIONS ABOLITION (COMPENSATION BONDS) 1ST AMENDMENT RULES, 1975, AND STATEMENTS FOR AFORESAID PAPERS AND ANNUAL REPORT OF CENTRAL WAREHOUSING CORPORATION FOR 1975 76

THE MINISTER OF STATE IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI ANNASAHEB P. SHINDE)· I beg to lay on the Table—

(1) A copy of the Central Warehousing Corporation (Third

Amendment) Rules, 1976 (Hindi and English versions) published in Notification No. G.S.R. 811(E) in Gazette of India dated the 22nd September, 1976, under sub-section (3) of section 41 of the Warehousing Corporation Act, 1962. [*Placed in Library. See* No. LT-11374/76.]

(2) A copy each of the following Reports (Hindi and English versions) under sub-section (1) of section 619A of the Companies Act, 1956.—

(i) Annual Report of the Central Fisheries Corporation Limited, for the year 1972-73.

(ii) Annual Report of the Central Fisheries Corporation Limited, for the year 1973-74.

(3) A statement (Hindi and English versions) showing reasons for delay in laying the reports mentioned at (2) above. [*Placed in Library. See* No. LT-11375/76.]

(4) (i) A copy of the Gujarat Devasthan Inams Abolition (First Amendment) Rules, 1976, published in Notification No. GHM-75/M-232-DAR-1071-Y in Gujarat Government Gazette dated the 13th November, 1975, under sub-section (2) of section 29 of the Gujarat Devasthan Inams Abolition Act, 1969 read with clause (c) (iii) of the Proclamation dated the 12th March, 1976 issued by the President in relation to the State of Gujarat together with an explanatory note.

(ii) A statement (Hindi and English versions) explaining reasons for not laying the Hindi version of the above Notification. [*Placed in Library. See* No. LT-11376/76].

(5) (i) A copy of the Gujarat Surviving Alienations Abolition (Compensation Bonds) (First Amendment) Rules, 1975, published in Notification No. GHM-75/233-M/GSA/1973/134706-Y in Gujarat Government Gazette dated the 13th November, 1975 under sub-section (2) of section 28 of the Gujarat Surviving Alienations Abolition Act, 1963 read with clause (c) (iii) of the Proclamation dated the 12th March, 1976 issued by the President in relation to the State of Gujarat together with an explanatory note.

(ii) A statement (Hindi and English versions) explaining reasons for not laying the Hindi versions of the above Notification. [*Placed in Library. See* No. LT-11377/76].

(6) A copy of the Annual Report (Hindi and English versions) of the Central Warehousing Corporation, for the year 1975-76 along with the Audited Accounts and the Audit Report thereon, under sub-section (11) of section 31 of the Warehousing Corporation Act, 1962. [*Placed in Library. See* No LT-11378/76].

SEAMEN'S PROVIDENT FUND (AMDT) SCHEME, 1976

THE MINISTER OF TRANSPORT AND SHIPPING (DR. G. S. DHILLON): Sir, on behalf of Shri H. M. Trivedi, I beg to lay on the Table a copy of the Seamen's Provident Fund (Amendment) Scheme, 1976 (Hindi and English versions) published in Notification No. G.S.R. 1233 in Gazette of India dated the 21st

August, 1976 under section 24 of the Seamen's Provident Fund Act, 1966. [*Placed in Library. See* No. LT-11378/76].

NOTIFICATIONS UNDER COMPANIES ACT, 1956, NOTIFICATION RE. M/s. MATHA VARA NIDHI LTD., TAMIL NADU, DRAFT ORDERS UNDER COMPANIES ACT, 1956 AND NOTIFICATIONS AND COMPANIES (ACCEPTANCE OF DEPOSITS) 2ND AMENDT. RULES, 1976

THE DEPUTY MINISTER IN THE MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI BEDABRATA BARUA): **1. I beg to relay on the Table a copy of Draft Notification No. 20/4/76-IGC (Hindi and English versions) to be issued under sub-section (1) of section 620 of the Companies Act, 1956 making certain amendment to Notification No. S.R.O. 355 dated the 17th January, 1957, under sub-section (2) of section 620 of the said Act. [*Placed in Library. See* No. LT-10964/76].

2 I beg to lay on the Table—

(a) A copy of Draft Notification No. 15/14/74-IGC (Hindi and English versions) regarding non-application of section 295 (1) of the Companies Act, 1956 to Government Companies, to be issued under sub-section (1) of section 620 of the Companies Act, 1956, under sub-section (2) of section 620 of the said Act. [*Placed in Library. See* No. LT-11379/76].

(b) A copy of Notification No. G.S.R. 1300 (Hindi and English versions) published in Gazette of India dated the 11th September, 1976 declaring M/s. Matha Vara Nidhi Limited a company having its registered office in the State of Tamil Nadu as a 'Nidhi' under sub-section (3) of section 620A of the Companies Act, 1956. [*Placed in Library. See* No. LT-11380/76].

(c) A copy each of the following Draft Orders (Hindi and English versions) under sub-section (6) of section 81 of the Companies Act, 1956:—

(i) Draft Order No. 33/19/76-CL. III directing M/s. Westinghouse Saxby Farmer Limited to convert part of its loan into equity capital, to be issued under sub-section (4) of section 81 of the Companies Act, 1956.

(ii) Draft Order No. 33/39/76-CL. III directing M/s. Mining and Allied Machinery Corporation Limited to convert part of its loan into equity capital, to be issued under sub-section (4) of section 81 of the Companies Act, 1956. [*Placed in Library. See* No. LT-11381/76].

(d) A copy each of the following Notifications (Hindi and English versions) under sub-section (5) of section 396 of the Companies Act, 1956:—

(i) The Balmer Lawrie and Company Limited and Industrial Containers Limited Amalgamation Order, 1976, published in Notification S.O. 542(E) in Gazette of India dated the 12th August, 1976 together with Corrigenda thereto published in Notification No. S.O. 591(E) (English version) and S.O. 592(E) (Hindi version) in Gazette of India dated the 6th September, 1976.

**The Notification was previously laid on the table on 10-8-76.

(ii) The Balmer Lawrie and Company Limited and Steel Containers Limited Amalgamation Order 1976, published in Notification No. S O 543(E) in Gazette of India dated the 12th August, 1976 together with Corrigenda thereto published in Notification No S.O 593 (E) (English version) and S O 594 (E) (Hindi version) in Gazette of India dated the 6th September, 1976 [*Placed in Library. See* No LT-11382/76]

(e) A copy of the Companies (Acceptance of Deposits) Second Amendment Rules, 1976 (Hindi and English versions) published in Notification No G S R 820 (E) in Gazette of India dated the 27th September, 1976, under sub-section (3) of section 642 of the Companies Act, 1956 [*Placed in Library See* No LT-11383/76]

ANNUAL REPORT OF ALL INDIA INSTITUTE OF MEDICAL SCIENCES, NEW DELHI FOR 1975-76.

THE DEPUTY MINISTER IN THE MINISTRY OF HEALTH AND FAMILY PLANNING (SHRI A K M ISHAQUE) I beg to lay on the Table a copy of the Annual Report (Hindi and English versions) of the All India Institute of Medical Sciences, New Delhi, for the year 1975-76 under Section 19 of the All India Institute of Medical Sciences Act, 1956 [*Placed in Library. See* No LT-11384/76]

Arms (Amdt) Rules, 1976

THE DEPUTY MINISTER IN THE MINISTRY OF HOME AFFAIRS (SHRI F H MOHSIN) I beg to lay on the Table a copy of the Arms (Amendment) Rules, 1976 (Hindi and English versions) published in Notification No G S R 1242 in the Gazette of India dated the 21st August, 1976, under sub-section (3) of section 44 of the Arms Act, 1959 [*Placed in Library. See* No LT-11385/76]

REVIEWS AND ANNUAL REPORTS OF AGRO-INDUSTRIES CORPORATIONS OF PUNJAB, ANDHRA PRADESH, WEST BENGAL, KERALA AND STATEMENTS FOR DELAY, ETC

THE DEPUTY MINISTER IN THE MINISTRY OF AGRICULTURE AND IRRIGATION (SHRI PRABHUDAS PATEL) I beg to lay on the Table—

(1) A copy each of the following papers under sub-section (1) of section 619A of the Companies Act, 1956 —

(a)(i) Review (Hindi and English versions) by the Government on the working of the Punjab Agro-Industries Corporation Limited, Chandigarh, for the year ending 31st May, 1973

(ii) Annual Report (Hindi and English versions) of the Punjab Agro-Industries Corporation Limited, Chandigarh for the year ending 31st May, 1973 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon [*Placed in Library. See* No LT-11386/76]

(b) (i) Review (Hindi and English versions) by the Government on the working of the Andhra Pradesh State Agro-Industries Corporation Limited, Hyderabad, for the year ending 30th June, 1973

(ii) Annual Report (Hindi and English versions) of the Andhra Pradesh State Agro-Industries Corporation Limited. Hyderabad, for the year ending 30th June, 1973 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-11387/76].

(c) (i) Review (Hindi and English versions) by the Government on the working of the West Bengal Agro-Industries Corporation Limited, Calcutta for the year ending 31st March, 1974.

(ii) Annual Report (Hindi and English versions) of the West Bengal Agro-Industries Corporation Limited, Calcutta for the year ending 31st March, 1974 along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon. [*Placed in Library. See* No. LT-11386/76].

(d) (i) Review (Hindi and English versions) by the Government on the working of the Kerala Agro-Industries Corporation Limited, Trivandrum, for the year ending 31st March, 1974

(ii) Annual Report of the Kerala Agro-Industries Corporation Limited, Trivandrum for the year ending 31st March, 1974, along with the Audited Accounts and the comments of the Comptroller and Auditor General thereon.

(2) Four statements (Hindi and English versions) showing reasons for delay in laying the documents mentioned at (1) above.

(3) A statement (Hindi and English versions) explaining the reasons for not laying simultaneously Hindi version of the document mentioned at (1) (d)(ii) above. [*Placed in Library. See* No. LT-11389/76].

FINANCE ACCOUNTS OF THE UNION GOVERNMENT FOR 1974-75

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): I beg to lay on the Table a copy of the Finance Accounts of the Union Government for the year 1974-75 (Hindi and English versions). [*Placed in Library. See No.* LT-11390/76].

TOBACCO BOARD (AMENDMENT) RULES, 1976 AND ANNUAL REPORT OF TRADE DEVELOPMENT AUTHORITY, NEW DELHI FOR 1975-76

THE DEPUTY MINISTER IN THE MINISTRY OF COMMERCE (SHRI VISHWANATH PRATAP SINGH): I beg to lay on the Table—

(1) a copy of the Tobacco Board (Amendment) Rules, 1976 (Hindi and English versions) published in Notification No. G.S.R. 1259 in Gazette of India dated the 28th August, 1976, under sub-section (3) of section 32 of the Tobacco Board Act, 1975 [*Placed in Library. See* No LT-11391/76].

(2) A copy of the Annual Report (Hindi and English versions) of the Trade Development Authority, New Delhi, for the year 1975-76. [*Placed in Library. See* No. LT-11392/76].

11.07 hrs.

CENTRAL AND OTHER SOCIETIES (REGULATION) BILL

AS PASSED BY RAJYA SABHA

SECRETARY-GENERAL: Sir, I lay on the Table of the House the Central and Other Societies (Regulation) Bill, 1976, as passed by Rajya Sabha

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ASSENT TO BILLS

SECRETARY-GENERAL Sir, I lay on the Table following six Bills passed by the Houses of Parliament during the last session and assented to since a report was last made to the House on the 1st September, 1976 —

1 The Delhi Sales Tax (Amendment and Validation) Bill, 1976
2 The Essential Commodities (Amendment) Bill, 1976
3 The Dhoties (Additional Excise Duty) Repeal Bill, 1976
4 The Factories (Amendment) Bill 1976
5 The *Appropriation (No 6)* Bill, 1976
6 The Central Sales Tax (Amendment) Bill, 1976

Sir, I also lay on the Table copies, duly authenticated by the Secretary-General of Rajya Sabha, of the following nineteen Bills passed by the Houses of Parliament during the last session and assented to since a report was last made to the House on the 1st September, 1976 —

1 The Maintenance of Internal Security (Second Amendment) Bill, 1976
2 The Government of Union Territories (Amendment) Bill, 1976
3 The Delhi Agricultural Produce Marketing (Regulation) Bill, 1976.
4 The Representation of the People (Amendment) Bill, 1976.
5 The Indian Iron and Steel Company (Acquisition of Shares) Bill, 1976
6 The Conservation of Foreign Exchange and Prevention of Smuggling Activities (Second Amendment) Bill, 1976
7 The Braithwaite and Company (India) Limited (Acquisition and Transfer of Undertakings) Bill, 1976
8 The Burn Company and Indian Standard Wagon Company (*Nationalisation) Bill, 1976*
9 The Laxmirattan and Atherton West Cotton Mills (Taking Over of Management) Bill, 1976
10 The Constitution (Forty-First Amendment) Bill, 1976
11 The Labour Provident Fund Laws (Amendment) Bill, 1976
12 The Metal Corporation (Nationalisation and Miscellaneous Provisions) Bill, 1976
13 The Fifth Scheduled to the Constitution (Amendment) Bill, 1976
14 The Kerala Legislative Assembly (Extension of Duration) Second Amendment Bill, 1976
15 The Code of Civil Procedure Bill 1976
16 The Salaries and Allowances of Members of Parliament (Amendment) Bill 1976
17 The Untouchability (Offences) Amendment and Miscellaneous Provision Bill 1976
18 The Advocates (Amendment) Bill, 1976
19 The Scheduled Castes and Sshe-duled Tribes Orders (Amendment) Bill, 1976.

SUPPLEMENTARY DEMANDS FOR GRANTS (RAILWAYS), 1976-77

THE MINISTER OF RAILWAYS (SHRI KAMALAPATI TRIPATHI): I beg to present a statement showing Supplementary Demands for Grants in respect of the Budget (Railways) for 1976-77.

DEMANDS FOR EXCESS GRANTS (RAILWAYS), 1974-75

THE MINISTER OF RAILWAYS (SHRI KAMALAPATI TRIPATHI): I beg to present a statement showing Demands for Excess Grants in respect of the Budget (Railways) for 1974-75.

SUPPLEMENTARY DEMANDS FOR GRANT (GENERAL), 1976-77

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): I beg to present a statement showing Supplementary Demands for Grants in respect of the Budget (General) for 1976-77.

SUPPLEMENTARY DEMANDS FOR GRANTS (GUJARAT), 1976-77

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): I beg to present a statement showing Supplementary Demands for Grants in respect of the State of Gujarat for the year 1976-77.

SUPPLEMENTARY DEMANDS FOR GRANTS (PONDICHERRY), 1976-77

THE DEPUTY MINISTER IN THE MINISTRY OF FINANCE (SHRIMATI SUSHILA ROHATGI): I beg to present a statement showing Supplementary Demands for Grants in respect of the Union territory of Pondicherry for the year 1976-77.

11.10 hrs.

MOTION RE: BUSINESS OF THE HOUSE

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): I beg to move:

> "This House resolves that the current session of Lok Sabha being in the nature of a special session to consider the Constitution (Forty-fourth Amendment) Bill, 1976 and certain unavoidable and essential Government business, only Government business be transacted during the session and no other business whatsoever including Questions, Calling Attention and any other business to be initiated by a private Member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rules of Procedure and Conduct of Business in Lok Sabha do hereby stand suspended to that extent."

I might mention that I have also an amendment to this motion and if I am permitted, I shall read that also before I make my comments:

I beg to move:

> "That in the motion,—
>
> *add* at the end—
>
> 'Provided that after the disposal of the Constitution Amendment Bill, time permitting the Speaker may in his discretion allow Calling Attentions and Short Duration Discussions.' "

As the House is aware, this is a very special session to consider the Constitution Amendment Bill .... (*Interruptions*) As I was saying this is a very special session to consider the Constitution Amendment Bill and incidentally also, if there is time, to do such other essential business as may be necessary. For instance, I have placed an Ordinance on the Table of the House and it would be necessary to take it up and approve it

during this session The main idea is to give an opportunity to the House and all the members thereof and the ministers to give their undivided attention to this most important measure This is the spirit behind it Secondly, the idea is to give each member as far as possible an opportunity to participate in the discussion This is the reason why we wanted to save time But as my proviso shows, I have not barred altogether any other business The moment this is over, time permitting, the Speaker in his discretion, may allow calling attention and short duration discussions Regarding the allocation of time, I have certain recommendations and submissions to make I shall mention them after this motion is passed

MR SPEAKER The motion and the amendment thereto moved by the hon Minister are before the House

श्री रामावतार शास्त्री (पटना) · अध्यक्ष जी, यह जो सकल्प पेश किया गया है मैं इसका विरोध करता हु और विरोध करते हुए अपना सशोधन इसमे प्रस्तावित करता हू—जो इस प्रकार है—

I beg to move:

> That in the motion, *after* "only Government business" *insert*—"Short Notice Question, Calling Attention and a special debate on the flood situation in the country" (1) That in the motion, *omit* "whatsoever" (3) That in the motion, *omit* "Calling Attention" (4)

अध्यक्ष जी, अभी हमारे पार्लियामेन्ट्री अफेयर्स मिनिस्टर ने प्रस्ताव को पेश करते हुए जो दलील दी है कि हम लोग यहा पर केवल सविधान सशोधन विधेयक को पास करने के लिये ही एकत्र हुए हैं, इसलिये दूसरी बातें यहा पेश नही हो सकती हैं, दूसरे जो महत्वपूर्ण सवाल पिछले महीने मे घटित हुए हैं उन पर यहा वार्ता नही हो सकती है। उसके बाद उन्होंने फिर एक सशोधन पेश करने की कोशिश की कि सविधान सशोधन विधेयक पास होने के बाद यदि समय मिलेगा तो अध्यक्ष जी किसी और सवाल को पेश करने की इजाजत या आदेश दे सकते है। अध्यक्ष जी जहा तक मेरी जानकारी है—1 नवम्बर तक इन सविधान सशोधनो पर विचार किया जाएगा और यह बात भी बिल्कुल सही है कि बहुत महत्वपूर्ण सशोधन है इस पर ज्यादा से ज्यादा बहस होनी चाहिये इसलिये इस बात से हमारा विरोध नही है, इस पर जरूर बहस की जाय, लेकिन बाद मे केवल दो दिन रह जायेंगे—2 तथा 3 नवम्बर, जिनमे यदि जरूरत हुई तो आप इजाजत दे सकते हैं। इन सब बातो को देख कर मैं तो यह समझता हू कि सरकार ने सदन मे आम तौर से जो कार्यवाही होती है उस पर बन्दिश लगा कर बहुत ही गलत काम किया है, एक तरह से सदस्यों के अधिकारो पर कुठाराघात किया हैं। पिछले अधिवेशन से इस अधिवेशन के बीच मे देश के सामने बहुत से महत्वपूर्ण सवाल पेश हुये है—जैसे बिहार मे बाढ़ की स्थिति, सुदामडीह और दूसरी कोयला खानो मे बहुत ही भयकर दुर्घटना हुई, रेलवे एक्सीडेंट हुआ, बम्बई मे हवाई जहाज की दुर्घटना हुई, जिसमे सारे लोग मारे गये, एक आदमी भी नही बचा, उडीसा, बगाल और बिहार मे सूखे की स्थिति, कीमतों का बढ़ना—एक तरफ सरकार कहती है कि कीमतों मे कमी हो गई है, इसलिये सरकारी कर्मचारियों को पाचवी महगाई की किश्त नही दे सकते हैं, तथा दी हुई राशि को भी वापस लेने की घोषणा की गई, लेकिन बाद मे कुछ बुद्धि आई और दी हुई किश्त को वापस न लेने का फैसला किया गया, उसके बाद बोनस का सवाल है, जिनको लेकर मजदूर बहुत ज्यादा एजिटेटेड हैं। मैंने ये कुछ सवाल आपके सामने रखे हैं जिन पर बहस होना बहुत जरूरी हैं, जिन प्रश्नो के बारे मे हिन्दुस्तान की जनता पार्लियामेंट की राय जानना चाहती हैं।

लेकिन आप तो सब पर बन्दिश लगा रहे हैं। नसबन्दी को लेकर अभी मुजफ्फर नगर में गोली चली, हमारी खबर है कि उसमे 40 आदमी मारे गये। वहा के काग्रेस एम० एल० ए० घबराये हुए है कि यह क्या हो रहा है। इन सब सवालों पर किसी न किसी रूप मे, काल अटेन्शन के रूप मे, विशेष बहस के रूप मे, शार्ट नोटिस क्वेश्चन के रूप में इस सदन में बहस होनी चाहिये ताकि सरकार का स्टेण्ड उन मामलों पर क्या हैं, सरकार की क्या नीति है—इन सब बातों की जानकारी हमको मिल सके।

इसलिये मैं चाहता हू कि आखरी दो दिनों मे ही नही, बल्कि बीच-बीच मे इन सवालों पर बहस करने की इजाजत आपकी ओर से दी जानी चाहिये। प्रति दिन आप एक-एक ध्यान आकर्षण प्रस्ताव स्वीकार करें और अन्य सवालों पर भी बहस का मौका दीजिये। बिहार मे, जैसी भयकर बाढ़ इस साल आई है—आपको विदित है। स्वय अपने क्षेत्र को आप देख कर आये हैं। इसलिये इन तमाम सवालों पर यहा बहस होनी चाहिये। मैं पार्लियामेंट्री अफेअर्स मिनिस्टर से आपके द्वारा अनुरोध करूगा कि वे हमारे सशोधनों को स्वीकार कर लें और इस सदन को गम्भीरता के साथ उन तमाम महत्वपूर्ण सवालों पर विचार करने का मौका दें और साथ-साथ सविधान सशोधनों पर भी विचार किया जाय। इन महत्वपूर्ण सवालों को नजरअन्दाज करना जनतान्त्रिक प्रणाली के विपरीत है, एक प्रकार से जनता की मनोदशा को नजरअन्दाज करना होगा। इसलिये, अध्यक्ष जी, मेरा अनुरोध है कि आप भी अपनी शक्ति सरकार को इस बात के लिये राजी करने मे लगाये कि इन सवालों पर यहा बहस होनी चाहिये।

इन शब्दों के साथ मुझे विश्वास है कि सरकार मेरे इन सशोधनों को अवश्य स्वीकार करेगी।

MR. SPEAKER: Sardar Swaran Singh Sokhi.

SHRI DINEN BHATTACHARYYA (Serampore): The Motion moved by Mr. Raghu Ramaiah should be given preference I cannot understand, Sir, the procedure that you are following. We are opposing the very Motion itself So, that should be given preference after the main motion.

MR SPEAKER Sardar Swaran Singh Sokhi

SHRI S M BANERJEE (Kanpur): The procedure is that when a Motion is moved, and immediately if any Member wants to oppose it, (*interruptions*)

MR SPEAKER Order please, there is a lot of noise in the House

SHRI S M BANERJEE I want only to make a submission, Sir, and get your guidance The parliamentary procedure is that whenever a Motion is made either from this side or from the other side, if immediately any Member has approached you to oppose that Motion, he should be given a chance, and after that Motion and after his opposition comes the amendment

SHRI DINEN BHATTACHARYYA: Samar Babu approached you, Sir, on our behalf to say that we want to oppose the Motion to be moved by Mr Raghu Ramaiah Preference should be given to our Motion because we are opposing

SHRI S M BANERJEE I want to speak on the amendment of Mr. Shastri

MR SPEAKER Later on, I will put them all together, and I will give everybody a chance

SARDAR SWARAN SINGH SOKHI: In view of the amendment moved by Shri Raghu Ramaiah to the

Motion, I do not move any amendment.

MR SPEAKER Mr Shastri, have you moved amendments No 3 and 4? Have you moved all?

SHRI RAMAVATAR SHASTRI I have already moved.

MR SPEAKER Although it was rather late, it was a special request Now, Mr Siddayya

SHRI S M SIDDAYYA (Chamarajanagar) I am not moving,

MR SPEAKER Mr Samar Mukherjee approached me to say that he wanted to oppose this Motion Although it was late, because it is an important Motion and an important subject I am allowing him to move it I have also received a request from Mr Indrajit Gupta who wants to oppose this Motion I allow both the hon Members

Now Mr Samar Mukherjee

SHRI SAMAR MUKHERJEE (Howrah) Mr Speaker, Sir, I oppose the motion moved by Shri Raghu Ramaiah No special session is required for passing the Bill on the Fortyfourth Amendment of the Constitution, suspending all non-official business Our Party's stand with regard to these amendments, and the procedure to be followed to involve the whole people in the debate to seek their verdict has been made clear by me in the last session, when I opposed the introduction of the Bill

We are in favour of radical changes in the Constitution to strengthen the aspects of democracy and the role and sovereignty of the people The thrust of the present amendment, incorporated in the Bill, is in the opposite direction, to strengthen authoritarianism and one-party dictatorship That is why the Government is interested in getting them passed in a hurry by a Parliament which has lost its mandate and in conditions of total suppression of free expression of views while putting thousands including M.Ps and M L As in jail

We are opposed to the Bill being discussed in this Parliament and to turn this session into a special session, suspending all non-official business, when many urgent issues involving the interests of the people require attention and intervention of the House

Constitutional amendments of far-reaching implications must always have the sanction and mandate of the people For this an atmosphere and conditions must be created for free expression of views Just on the eve of this session we saw the demand for a Constituent Assembly raised in joint meetings of State Congress Committees and Legislature Congress Parties in the four States of Uttar Pradesh, Bihar Punjab and Haryana The purpose behind this move will be considered as a manoeuvre to cover up the opposition they face from various sections of the people and to further postpone the elections that are due unless steps are taken to secure the real verdict of the people

When the issue has come to the forefront we wish to make our party's stand clear about the Constituent Assembly It will be a real forum of the people to bring about basic changes in the Constitution if the following conditions are fulfilled

(1) The Constituent Assembly should consist of members directly elected by the people

(2) The system of proportional representation should be adopted for the election of members to the Constituent Assembly

(3) A minimum period of six months should be given for free dis-

cussion on the various aspects of the Constitution.

(4) The Emergency should be lifted, the pre-censorship withdrawn, the political prisoners including M.Ps. released, the MISA, the DIR and the Press Objectionable Matter Act and other repressive legislations repealed and the Opposition should be given as much freedom to propagate their views as the ruling party has to propagate its views.

(5) An All-Parties' Committee should be formed to supervise the elections, with powers to make rules for preventing corrupt practices and misuse of official machinery.

I demand that the Constitution (Fortyfourth Amendment) Bill be withdrawn and this session be declared as a normal session.

In any case we refuse to participate in the debate on the Constitution (Amendment) Bill. We are walking out in protest.

Some Hon. Members then left the House.

SHRI INDRAJIT GUPTA (Alipore): On behalf of our Group, I cannot support this motion which has been moved by Shri Raghu Ramaiah, and I will give the reasons for it, confining myself to this motion for the present. We will deal with the Forty-fourth Amendment when it comes.

This is the first time we are being told that the current session of the Lok Sabha is in the nature of a special session. When was this decided, who decided it? Neither the Rules of Procedure, nor the Constitution, nor anything else provides for such a thing as a special session. Just because the ruling party feels that this should be treated as a special session, that cannot be used as an argument for moving a motion whose effect is to suspend all the normal rules and practices of this Parliament. I do not like the way it has been done. Nobody was ever consulted. The Opposition was never taken into confidence. That, of course, is now unfortunately the habit, on many occasions, I find.

Secondly, you are the Speaker, who presides over the deliberations of this House, who is the custodian of our rights and privileges, but suddenly in a blanket fashion a motion is moved saying that nothing emanating from any private Member, no non-official business whatsoever of any kind, should be permitted during this session. If it is purely a question of time, then he could have consulted with us as to how to make such an adjustment. I know later on he is coming up with a proposal that we must suspend the Lunch Hour and sit on Saturday. Have we ever opposed these things whenever necessary? During the annual consideration of the Budget Grants, this House sits for one, two or three hours extra sometimes. Could it not have been adjusted? Is this any ground for coming forward and saying that no kind of non-official business will be permitted? We protest strongly against this. This betrays a very wrong attitude, I should say, towards this Parliament and towards the rights of Parliament.

For example, why should not the Question Hour be there? The Question Hour never goes beyond one hour You are here to control the House Has the Question Hour ever gone beyond 12 O'Clock? It never goes beyond 12 O'Clock. For that one hour if you want an adjustment, we could have suggested that we could sit one extra hour in the evening. But, no, they have decided: no questions, no other business, no calling attention.

Mr. Shastri has already mentioned, I do not want to repeat them, some of the very important and very urgent matters arising out of recent events and incidents which have taken place. We are assembling here after a couple of months. The public of the country naturally expects that some of these matters will be raised here, that Governmnt will make some statement and explain its position Just now Mr. Shastri made reference to something very disturbing, I should say, to put it mildly, which we are told has taken place in Muzaffarnagar One Member there jumped up and said it was all wrong If it is all wrong, we would like to hear Let us raise it and let somebody explain that our information is wrong, that this is what actually happened But, no, *nothing is to be* permitted

So, the Home Minister need not say anything The Minister of Civil Aviation need not say anything about this ghastly air accident in which so many people have perished The Minister of Mines need not say anything about what has happened in Sudamdih While the ghost of Chasnala is still haunting us another major accident has taken place in which several minors have lost their lives

Are we not to discuss anything? What is the idea? What is this Parliament for? It is a question of arranging the business and adjusting time and seeing that Government's essential business also goes through Nobody wants to obstruct We are prepared to co-operate in the discussion fully Why should it be a one-sided thing? Why should Private Members' business be completely shut out in this way?

I am not at all mollified by this late amendment which the Minister of Parliamentary Affairs has brought saying that, after the disposal of the Constitution (Forty-fourth Amendment) Bill, time-permitting, the Speaker may in his discretion on the last two days allow Calling Attention, etc This is the mercy that has been shown to you by the Minister of Parliamentary Affairs This cavaliar sort of attitude, this kind of interference with the normal practices and procedures of the House and the rights of Members should not be encouraged to go on in this way

I still appeal to him Of course, we cannot restore the Question Hour now because no notices of Questions were permitted or invited Short Notice Questions can be permitted. One Calling Attention Notice taken up at your discretion on a particular day or days will not mean that heavens will fall At least, the Members will get some relief, some satisfaction, of raising some important things The country will also know what the Government's position is, their explanation, their statements, their replies and their correction of any wrong things being said Do they not want such an opportunity?

We are opposed to this motion It is not a question of deciding something here by vote You can vote anything through We know it very well I am making an appeal in the spirit of cooperation We are not here wanting to obstruct the discussion on the Constitution (Forty-fourth Amendment) Bill But you should be also reasonable and try to meet us half-way There should not be this kind of riding rough-shod over us just because you know you have got a big majority and, therefore, you can do anything I do not know what the reaction of the Speaker is I am not entitled to ask him here Once this sort of a thing is allowed to go on, every now and then, we will be told, "This is a special session to consider urgent Government business. Therefore, all non-official business must be suspended" Where are we heading to?

We are totally opposed to this kind of attitude, the procedure by which it was done without consulting anybody, without making any serious attempt to see if some adjustment could be made, just relying on your big majority.

Finally, though this may not concern directly the Minister of Parliamentary Affairs—I am glad to see that the Minister of Information and Broadcasting is present here—incidentally, I would like to know, if you were to permit him to remove our apprehensions, whether in this session also we are going to be reported in the press. For example, when the debate takes place on the Constitution (Forty-fourth Amendment) Bill—our party supports many things in the Bill and there are many other things which we do not support—are we going to be reported in the press? Is the press going to be allowed to report what we say or not? I am glad to see, in recent days—there may be some special factors responsible for it; I do not want to make a conjecture—obviously, the Censor had instructions to permit a fairly detailed reporting of the discussions held at certain recent seminars and conferences most of which were highly critical of the Constitution Amendment Bill. The meetings which have been organised by certain political parties, certain rightist parties, certain other groups or individuals have made very trenchant criticism. Even one month ago, such things were never permitted to appear in print. Suddenly, I found to my surprise that lengthy reports were appearing in the press, giving even details of the speeches of many of these gentlemen. I do not object; it is a good thing. Let the public know what they have to say. Let the other people's views also be published. If you have permitted, if your Censor has permitted, all these things to be published, if Mr. Kamath, for example, can say something sitting in the Vithalbhai Patel House which gets him half a column or one column of publicity, I would like to know whether what I say inside this House is at least going to get an equal treatment or is going to be blacked out.

I know, Mr. Shukla will say, "There is no censorship on coverage of parliamentary proceedings. I have already told you. There are only some guidelines." But let us not beat around the bush. These guidelines or whatever they are have been acting and operating a very effective censorship of the entire press. As far as I know, of course, some sections of the press, even if censorship goes away may not publish certain things said by certain people whom they do not like. I am not bothered about that. I am not at all upset by the fact that certain sections of the monopoly press would like to black us out. That does not worry me at all. But at least the coverage of Parliamentary proceedings on such an important Bill must be permitted freely. They already permitted things to be published in the last week or two. Certainly Parliament and Parliament Members deserve no less favourable treatment than that. Therefore, I would suggest, as this is connected with the whole way in which this Session is going to be conducted, the guidelines or whatever they are remaining still, should be removed, and as far as coverage of Parliamentary proceedings goes, the press should have absolute, unfettered freedom to publish whatever they want to.

SHRI S. M. BANERJEE (Kanpur): Mr. Speaker, Sir, this particular motion which has come is one where not even the Business Advisory Committee was consulted. Previously, whenever a Session was called, three or four days before the Session, the Speaker used to call a meeting of the leaders of all Parties. Your predecessor, Dr. Dhillon is here; he used to call such a meeting and also give lunch. In this particular case, Mr.

Raghu Ramaiah has not even relied on your wisdom, and has just come forward with this motion. This was simply circulated. I was expecting that the Speaker would call a meeting or the Minister of Parliamentary Affairs would call a meeting of the Business Advisory Committee. That was not done.

I support Shri Ramavatar Shastri's motion for this reason. Suppose this motion is passed by the House. Even you, as Speaker,cannot amend it because the House has passed it. I was, in fact, expecting *suo motu* statements by the Minister on the accidents that have taken place. 95 persons died in the plane crash; not a single person survived. At least on previous occasions they used to express their sympathies. Even that has not been done. About the mine disastor, nothing has been said. About the rising prices, nothing has been said. The Finance Minister was kind enough to withdraw those orders on the recovery of dearness allowance with retrospective effect. But the fifth instalment of dearness allowance has been withdrawn at a time when prices of all essential commodities are rising in the country. For these reasons I would request the House to support the amendments moved by Shri Ramavatar Shastri.

I now come to the last item which was mentined. I can tell you in all sincerity that I saw the Congress MLAs, who came from Muzaffarnagar they were in tears over what happened in Muzaffarnagar. The U. P. Chief Minister has, no doubt, taken note of it. Muzaffarnagar is a district in U. P. where the maximum number of people have undergone sterilisation—about 26,000 or so. Even there the District Magistrate or the Deputy Commissioner—I do not know who he is—was so brutal that he started firing. Some of the bureaucrats want to sabotage the whole family planning programme; they want to give it a bad name and create hatred among the members of the minority community. Such officers should have been immediately suspended. There should be an inquiry into what happened there. I stand for family planning; I not only support, but also practise it; I thought of family planning when nobody else thought about it. There should be a judicial probe into the whole thing. I appeal to the Prime Minister— the MLAs who have come have also appealed to the Prime Minister to send two or three Congress MPs to Muzaffarnagar. I would request you, Sir, to allow certain discussions. There should be no question of withdrawal of the fifth instalment of dearness allowance.

I would request the Minister of Parliamentary Affairs to withdraw his motion. We shall abide by your directive, Sir. We have full faith in your sense of impartiality and justice. We know, you will allow only such motions which are important.

SHRI P. K. DEO (Kalahandi): Mr. Speaker, Sir, while appreciating the emenrgency and the importance of the Constitution (Amendment) Bill, I feel, a motion of this type moved by the Minister of Parliamentary Affairs will virtually amount to encrochment on the rights of the Members. When the Parliament meets, all the eyes of the country are rivetted to what is happening here. The people would like to know about the development that have taken place in the inter-session period. If these are being highlighted, if the Government attention is being drawn to them, what action is being taken about them. If the session is going to be treated as special session, I feel that our purposes will not be served.

I fully appreciate the amendment moved by Shri Raghu Ramaiah but there are no many 'ifs' and 'buts' in it. 'Time permitting' and 'at your discretion' would virtually amount to nothing.

[Shri P. K. Deo]

So far as Orissa is concerned, there has been an acute drought condition. We would like to take the opportunity of this forum to have a discussion on the drought conditions prevailing in the eastern States of Orissa. I would like that at least you will kindly permit a Calling Attention Motion or a two-hour discussion regarding the acute drought conditions in the State of Orissa.

SHRI EBRAHIM SULAIMAN SAIT (Kozhikode): Mr. Speaker, Sir, at the very outset, I would like to make it very clear that as far as our group is concerned, we are not objecting to concentrating in this session mainly on discussion about the Constitution (Amendment) Bill. We do not want to have any obstruction placed on the discussions here, but what is objected to is that we do not want that non-official business should be completely suspended. Nothing is going to be lost if the session is extended for a week or two and non-official business is also discussed in this House.

Today, very serious developments are taking place in this country and very tragic events have been taking place. People have been butchered and are being murdered in this country, particularly in Uttar Pradesh. The House would like to know, what has happened at Muzaffarnagar, what has happened in Kirana and what has happened in other parts of the country. I am very happy that the Prime Minister has always said and declared that there would be no compulsion and force as far as family planning and sterlization are concerned, but the officials are going against it and they are not abiding by the directions or the declaration of the Prime Minister. This is what is actually happening. I understand that there is a conspiracy on the part of these officers and they want to create a gulf between the minorities and the Government. The Government should realised that these officers who are doing this are really communal minded people and they should be suspended and action should be taken against them. This is clear to everybody and everybody knows about it. I would request the Prime Minister to send a team of Members of Parliament to find out the facts as to how many people have been killed ruthlessly at Muzaffarnagar and how many people have been killed at Kirana. It is reported that the police has entered the mosque and shot people. There are bullet marks as also blood stains inside the mosque. All this should be got verified. I do not want to hide the facts, I do not want to exaggerate the things, but I want the Government to realise what has been happening in this country because we want peace in this country, and the minorities to have confidence in the Government, so that we can support this Government and have a better atmosphere in India.

SHRI S. A. SHAMIM (Srinagar): Mr. Speaker, Sir, for once, I find myself in complete agreement with the Minister of Parliamentary Affairs. Much has been said about the advisability of calling it a special session. I am grateful to the Minister of Parliamentary Affairs and the Prime Minister that they have called it a special session. This is a special session, whether the rules say so or do not say so. This is a special occasion, unprecedented in the annals of history of this country. Therefore, let us not get side-tracked in other issues. Question Hour is a very important part of the Parliamentary business; we have had Question Hour for the last five and a half years. I think, this occasion does demand special concentration, a particular frame of mind, so that the rest of the country also knows that this is a very special occasion. We are amending the Constitution; some people call it 'ending the Constitution', but I will not enter in that debate at this juncture. I want to make it abundantly clear that I do not support the Constitution Amendment Bill. But I do grant the Minister of Parliamentary Affairs the right to call this session a special session because so many fundamental basic amendments in the Constitution warranted the calling of a special session Nothing will be lost if we devote all these five days for all those who support it and for those who oppose it in discussion so that the entire country and the world knows that this is a special occasion.

By introducing Question Hour, by introducing Calling Attention, what are we going to achieve except to satisfy our ego that we have discharged our parliamentary duties? To-day we have been called for a specific purpose Please do not dilute the effect I am saying from a different point of view also The Members on the opposite side understand me It seems that the Members on this side are trying to dilute the effect I sense it may not be a deliberate conspiracy It may be an unwitting partnership, so that we can say that it was a very normal situation—the House met there was Question Hour there was Calling Attention Motion, debate on family planning including debate on the 44th Amendment of the Constitution It is not so Let us have a separte session for discussing the effects and after effects of the family planning Do not mix up the issues Let us concentrate on the 44th Amendment of the Constitution Honourable Minister, surprisingly you are getting support from a very unexpected quarter I want you to withdraw the latter amendment Only the 44th Amendment of the Constitution may be discussed This is what everybody is looking forward to That is what the whole country is concentrating upon—the Government, the Congressmen, the Opposition, including myself I, therefore support your motion. I oppose everything that has been said on this side

MR SPEAKER. We have a number of Members who want to participate. S/Shri Manoharan and Dhote may take two minutes each.

SHRI K MANOHARAN (Madras North) I am not going to oppose the motion moved by Shri Raghu Ramaiah for the simple reason that after having heard

SHRI S A SHAMIM Having heard Shri Shamim

SHRI K MANOHARAN I have heard Shri Shamim ....

After having heard the remarks made by certain Members, particularly the convincing arguments given by my friend like Shri Indrajit Gupta barring Shri Shamim, I am sure Shri Raghu Ramaiah will withdraw this motion That is why I am opposing it So far as the 44th Amendment of the Constitution is concerned, we will offer our comments later on but I may now submit that in order to preserve democracy and the democratic spirit of this Parliament and the country Shri Raghu Ramaiah will come forward to withdraw this motion I am sure he will do it in consultation with the Prime Minister who is the custodian of the country's democratic spirit and tradition I hope, Mr Speaker you can also exercise your influence to see that undemocratic attitudes are not adopted in this House

श्री जांबुवंत धोटे (नागपुर) : अध्यक्ष महोदय, 44 में संविधान संशोधन विधेयक का मैं केवल समर्थन ही नही करता, बल्कि उस का स्वागत भी करता हू । इस संशोधन के ऊपर चर्चा करने के लिये जो एक खास अधिवेशन बुलाया गया है इस अधिवेशन में केवल इस संशोधन विधेयक पर ही चर्चा होनी चाहिये, यह जो भूमिका है इस का मैं पार्टली समर्थन करता हू ।

[श्री आनुबंत बोडे]

अध्यक्ष महोदय, यह संविधान का जो 44 वां संशोधन है। मेरे ख्याल से यह केवल संशोधन नहीं है और न ही ये केवल तबदीलियां हैं, बल्कि संविधान के संशोधन के नाम से इस हाउस को एक नया संविधान बनाना है। इस 44वें संशोधन को मैं केवल संशोधन नहीं समझता हूं, इसमें मेजर तबदीलियां की जा रही हैं जैसे कि इसके टाइटल में ही हम फर्क करने जा रहे हैं। यह एक नया संशोधन नहीं, बल्कि एक नया संविधान है। इस देश का जो संविधान बना हुआ है, उसे संविधान सभा ने बनाया है। संविधान में संशोधन करना हम सारे लोग समझ सकते हैं, लेकिन यह केवल संविधान का संशोधन नहीं, एक नया संविधान है। इसलिये मेरी दरख्वास्त यह है कि हमारे साथी शास्त्री जी ने मोशन रखा है, संकल्प रखा है उस संकल्प को स्वीकार करें और जो सारे गैर-सरकारी कारोबार है, काम हैं, उन पर ही इस अधिवेशन में विचार हो और जिस संविधान को संविधान सभा ने बनाया है और अब हम जो नया संधान बनाने जा रहे हैं, इस पर विचार करने के लिये एक नई संविधान सभा हम बनायें।

अब हम 44वें संशोधन के रूप में जो अमेंडमेंट पेश कर रहे हैं, केवल उसी को नहीं, बल्कि उस संविधान सभा में जो हमारा अब कान्स्टीट्यूशन है, जो वैस्टेड इन्ट्रेस्ट के लोगों को प्रोटैक्ट करता है, जो कान्स्टीट्यूशन कैपिटलिस्ट सोसाइटी को प्रोटैक्ट करता है, उसको पहले सस्पेंड करें और फिर नई संविधान सभा में एक नया गरिमा देने वाला एक अच्छा कांस्टीट्यूशन जो सारे लोगों को लाभ करे, वह बनायें।

अध्यक्ष महोदय : अमेंडमेंट पर बोले।

श्री आनुबंत बोडे : मैं शास्त्री जी के अमेंडमेंट पर ही बोल रहा हूं। मेरी दरख्वास्त यह है कि शास्त्री जी का जो संकल्प है, उसे स्वीकार करें और यह सारा अधिवेशन केवल गैर-सरकारी कारोबार के लिये रखें और एक नई संविधान सभा का निर्माण कर के उस में इस संशोधन पर विचार कर।

अध्यक्ष महोदय : सक्सेना जी, आप इस पर बोलना चाहते हैं या आपका कुछ और है ?

प्रो० एस० एल० सक्सेना (महाराजगंज) : मैं केवल एक ही बात कहना चाहता हूं। मैं इस मोशन के बारे में यह कहना चाहता हूं कि हमारे जिले में कई जगह पर लोग गोली से मारे गये हैं, उस पर भी विचार होना चाहिये।

मैं चाहता था कि इस सेशन के दो या तीन दिन बाद या शुरू मे ही इस तरह की बातों पर विचार होता। अच्छा होता कि संशोधन होता और स्पेशल सैशन की बात न होती। रूल्स में ऐसी बात नही है। मैं चाहता हूं कि रूल्स के मुताबिक काम किया जाये और इसमे सब चीजो को लागू किया जाये।

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K RAGHU RAMAIAH) I am exteremely grateful to Mr Shamim for his very generous support and if I may say so, deserved support. As for Mr. Samar Mukherjee nufortunately he is not here —all I can say is that his speech is full of wrong statements and inuendoes. He has made a political use of it instead of confining himself to the motion before the House. He has given a policy statement on the substantive points concerning the Constitution Amendment Bill itself. Taking advantage of this opportunity which is only of a procedural nature. And regarding Mr. Indrajit Gupta, the gravamen of his charge is that I have not consulted him.

Sir, of all people in the world, I am not a man to be accused of such a thing. I always consult, even unnecessarily sometimes, all the leaders of the House. Everybody knows about it. In fact, consultation requires the presence of two parties. When the leaders of the Opposition are not in Delhi, whom I have to consult? Government have to take a decision. I cannot leave out one party or consult only one party. Incidentally, if I may say so, I did mention to Shri Indrajit Gupta yesterday morning because it was only yesterday that we met and I did not get the impression that he was so vehemently opposed to this. I am sorry to say this, if I mistake not, I did not get that impression. I got the impression that he might have wanted me to act otherwise. I did not get the impression that he was going to oppose it on the floor of the House. However, I shall leave it there

Now, Sir, I would like to give one assurance that the intention is not to stifle the discussion on an important matter. As a matter of fact, if one reads my motion carefully, it does not prevent any Minister from laying any statement on the table of the House. I am happy to say that some Ministers are ready with their statements and, in due course, they will place them on the table of the House. The only point is, as Mr. Shamim put it, that if you want to give that importance to this subject, we should not divert attention to other matters however important they are? They are not more important than the constitutional amendments. As I have explained earlier and I have a proposal which will enable these matters to be discussed during the course of two days and, if necessary, I am prepared to come before the House with a request that the House may sit one day more to discuss any important matters.

As regards the general proposition that the Question Hour should not be suspended, may I remind the hon. Member, Shri Indrajit Gupta, that on many occasions, the Opposition themselves had come forward with their motions to suspend the Question Hour for very minor and insignificant purposes?

Some Members of the Opposition did come forward and it is on record (*Interruptions*)—not your party, but some other party—and you know that. Therefore, there is nothing fundamentally wrong in asking the House on a very special occasion like this to suspend the Question Hour and postpone these things by five, six or seven days. That is all. I am only asking you to please have patience for seven days, till the time we pass this Bill and then you can ask me whatever you like and the Speaker may give permission to whatever you like and I shall be guided by the Chair. Therefore, I do not think that any apprehension is justified in this context and I can assure you, as in the past, that in future, wherever it is possible and wherever it is necessary, I shall consult you all.

SHRI INDRAJIT GUPTA: I want to say one thing. I do not think it is fair of the Minister in this House to refer to certain impressions he got at a private meeting. I also got some impression from you. Shall I say that here? This is not a matter of Parliamentary debate. Please do not make it personal.

SHRI K. RAGHU RAMAIAH: Kindly listen to me. Because you said that I did not consult you earlier, I had to say here that I mentioned to you earlier..

SHRI INDRAJIT GUPTA: I said that the Opposition should have been consulted on how to adjust their time-table and programme. Did you do that?

SHRI K. RAGHU RAMAIAH: As I said, it was not possible because the

[Shri K. Raghu-Ramaiah]

Opposition Leaders were not available at that time when I moved the Motion. That was all my point. (*Interruptions*).

MR. SPEAKER: Now, I think, the Minister was a little more accommodative. In view of this, do you want to press your amendments? He said that if necessary, the House might be extended by a day or so and his inention is that no important subject which needs to be mentioned and then debated will be left out.

So, I shall now put amendments Nos. 1, 3 and 4 moved by Shri Ramavatar Shastri to the vote of the House.

Amendment Nos 1, 3 and 4 were put and negatived.

12 hrs.

MR. SPEAKER. The question is:

"That in the motion,—

add at the end—

"Provided that after the disposal of the Constitution Amendment Bill, time permitting, the Speaker may in his discretion allow Calling Attentions and Short Duration Discussions"

The motion was adopted.

MR. SPEAKER: I will now put the motion of Shri K. Raghu Ramaiah, as amended, to the vote of the House The question is:

"This House resolves that the current session of Lok Sabha being in the nature of a special session to consider the Constitution (Forty-fourth Amendment) Bill, 1976 and certain unavoidable and essential Government business, only Government business be transacted during the session and no other business whatsoever including Questions, Calling Attention and any other business to be initiated by a private Member be brought before or transacted in the House during the session and all relevant rules on the subject in the Rules of Procedure and Conduct of Business in Lok Sabha do hereby stand suspended to that extent.

Provided that after the disposal of the Constitution Amendment Bill, time permitting, the Speaker may in his discretion allow Calling Attentions and Short Duration Discussions."

The motion was adopted.

SHRI K. RAGHU RAMAIAH: Sir, I want to make a suggestion It is very necessary that the discussion on the Bill is concluded latest by the evening of 1st November because it has to go to the Rajya Sabha which is meeting on the 3rd. Keeping that time-schedule in view we may allot seven days—three days for the general discussion and four days for clause-by-clause consideration and the third-reading. In order to conclude it on the 1st November, I submit that we may sit on Saturday the 30th and I request the hon'ble Members to forgo the lunch-break from today as this will enable more Members to participate in the discussion.

MR. SPEAKER: Is it accepted by the House?

SOME HON. MEMBERS: Yes.

MR. SPEAKER: Now, we take up Forty-fourth Constitution Amendment Bill.

12.02 hrs.

CONSTITUTION (FORTY-FOURTH AMENDMENT) BILL

THE MINISTER OF LAW, JUSTICE AND COMPANY AFFAIRS (SHRI H. R. GOKHALE): Mr. Speaker, Sir, I beg to move:

> "That the Bill further to amend the Constitution of India be taken into consideration."

Sir, the Bill was introduced in this House on the 1st September and since then it has been before the country and before the people.

Sir, it was quite heartening to see that a very large number of people from different sections of the country participated in the discussions—people belonging to different professions, not only lawyers but also teachers, legislaters, students and various other sections of people spoke—and in the last one month or so there has been a lot of discussion by the people who are opposing the proposals contained in the Constitution Amendment Bill. Therefore, Sir, the major provisions of the Bill which contains 59 clauses are generally known. Though there are 59 clauses it does not mean that there are 59 substantive amendments to the Constitution. Basically the main topics on which the Bill provides certain amendments in thse Constitution can be said to be seven or eight. The others are conse-quential necessary for completing the process which can be regarded as not so important as the seven or eight which I referred.

Before I deal with some of the particular provisions of this Bill—in fact, I do not wish to go into all the details at this stage—I would broadly refer to the important features of this amending Bill at this stage when I am moving this Motion for consideration, because I will have occasion and a better opportunity to deal with the details after I hear the discussion during the consideration stage, and may be that will be the right time to deal with the details, some of which are, no doubt important. But it may not be necessary to refer to these details at this stage and I will broadly indicate what are the important features of the Bill. But before I do that, it is important to remember some very fundamental aspects as to our main approach as to why it has been thought necessary to bring a Bill of this nature before Parliament.

Everyone knows that in this country, our people struggled for freedom out of their hatred for imperialism and foreign domination, not only for achieving political freedom. In fact, even during the course of their struggle, way back in 1931, the Karachi Congress passed a resolution indicating that the objective is of course immediately political freedom, but that is not all, the objective is to bring about a socio-economic revolution in the country after the achievement of this freedom.

I recall to my mind the words uttered by our leader of revered memory, Pandit Jawaharlal Nehru, when with regard to this objective, he said this in the Constitutent Assembly:—

> "The first task of this Assembly is to free India through a new constitution, to feed the starving people, to clothe the naked masses and to give every Indian the fullest opportunity to develop himself according to his capacity".

Now, when he said this in the Constituent Assembly, and we have pased through a period of 25 years or so after the Constitution was framed, we have, in fact, it is our duty, to look back and find out whether this objective, on which emphasis was laid by Jawaharlal Nehru in the Constituent Assembly has been achieved, and if it had not been achieved, what were the obstacles, what were the hurdles which we have seen out of experience and which need to be removed sooner rather than later.

[Shri H. R. Gokhale]

When we deal particularly with a document like the Constitution, it is always said, I have said it more often than not, that a Constitution is not only a legal document; it is a social and political document. It must reflect the aspirations and the wishes of the people and it must be an effective instrument for carrying out those changes which are necessary to be carried out for effecting a socio-economic revolution. If that is the function of a constitution document, it becomes imperative—in fact, it becomes the duty of every one of us to see that at the appropriate time when we think there are certain hurdles or obstacles which come in our way because of the existing framework of the constitution, it is necessary that those obstacles should be removed. Therefore, it is primarily and pre-eminently, with a view to remove these obstacles, to see that we march ahead, our people march ahead in their social and economic objectives, that we have to amend this fundamental law, the law of laws, as it is often described, and we enable this Parliament and the people to achieve what has been their objective, what has been their ambition in the course of their career, political and otherwise, where nobody should be in a position to say that this Constitution comes in your way.

Now this has been the objective, and it has been stated, and I think nothing better could have been stated by anyone else than Pandit Jawaharlal Nehru. Therefore, I do not wish to dilate on this topic any further at this stage. It is true that in the last five years, after 1971, we have carried out certain amendments to the Constitution. Some of them were very important amendments to the Constitution, the 24th and 25th amendments and I think it might be useful to remember what made us bring in those amendments. It has been the experience, not now or in the last five years, but even soon after the Constitution was framed, in fact in the very first year after the Constitution was framed, when there was provisional parliament, that some provisions had to be amended and soon after the constitution was framed, it had to be amended. I am referring to the first amendment. We know the difficulties which were raised at that time; judicial pronouncements had said that the laws which abolished zamindari and such things were not constitutional, not to talk of other developments which had been part of the judicial history. In fact it is not only judical history, though mainly it is judicial history; it shows that at every stage when something was done with a view to give effect to the objectives, hurdles were thrown up. Before the last elections we had the problem about the abolition of the privy purses, we had the problem about bank nationalisation, leading to a situation where this country had to pay through the nose to sustain nationalisation of banks. There had been many somersaults in the judicial decisions Sometimes it was very difficult to understand really what the law of the land is. Article 141 says that what the Supreme Court says is the law of the land. But often this law of the land was given through different voices, often contradictory to each other. While at one time it was stated that you can go ahead and do certain things, immediately thereafter or not very late there after the Supreme Court said: you could not do it. Then came the judgement in 1967, when it was stated that you could not amend the Fundamental Rights. That really led to our moving the 24th amendment and we once again reasserted the supremacy of parliament and provided that the power of Parliament to amend the constitution was a constituent power; it is not the same as ordinary legislative power and that it had the power to amend any provision of the Constitution. After the passing of the 24th amendment, the fact that Parliament has the constituent power, the plenary power to amend any provision of the constitution was stated categorically, there should have been no difficulty in going ahead with those matters. But the dificulties did not stop there; we had to pass the 25th amendment which had a vital bearing on questions relating to economic and social changes. We had thought that after the passing of the 24th and 25th amendments making the necessary changes, all the difficulties which had been envisaged, rightly or wrongly by judicial pronouncements had been removed. Yet, after the 25th amendment, we were told that the power of Parliament was not that plenary or constituent. Fortunately, they said: you can amend the fundamental rights, but you cannot amend the basic features of the constitution. I recently read a very interesting analysis of the judgements in that case and that analysis was made by one of the sitting judges of the Supreme Court in the course of his judicial pronouncement. Analysing the majority judgement that said that basic features could not be amended, he pointed out how there is not only contradiction between one judgement and another. In the very same case there had been contradiction between what one judge said and what the other said. We do not know what are the basic features. I think we should not lose any time in once for all stating categorically and unambiguously, that there is no question of anything like basic features, about which they themselves do not know what they are. But so far as what Parliament regards as basic for the purpose of making changes is concerned, there can be no impediment in the way of Parliament to amend any provision of the Constitution. Therefore, it is in that sense that while I refer to socio-economic objectives, I am stating the secand proposition that apart from the details of various proposals, the most important feature of this Constitution Amendment Bill is that we are reasserting with all emphasis that the Parliament is supreme and there are no limitations on Parliament in respect of the amendment of the Constitution. We have made proposals to give effect to this asertion of Parliament's supremacy and its sovereignty and that to my mind is one of the most important features of the present Constitution Amendment Bill. In one of the clauses we have said that after this amendment becomes effective, no court, howsoever high or low, will be entitled to go into the question of the validity of a Constitution Amendment i.e. its constitutionality or otherwise. I know that this has come in for criticism in certain quarters. At least they have opened their mouths recently! In fact, my grievance was, they have been saying—it was said here in the morning also—that there should be a greater dialogue, that people should be allowed to talk. We did not shut their mouths. We certainly cannot compel them to open their mouths! If they opened their mouths, they did not say anything about the proposals in the Constitution Amendment Bill. They went on mainly making political criticism which we have been hearing for the last several years. In fact, when I heard Shri Samar Mukherjee today, I wondered whether he has made use of the same speech which he made when the Bill was introduced in the House on 1st September. I found nothing new in that! Whatever they wanted to say, they had the opportunity to say and they have said it. There has been a good enough debate in the country among all sections of the people. As I said in the beginning, the comment that the Bill has not been open for discussion to my mind is only a comment motivated by considerations which are not germane to the question whether the present amending Bill which has been brought before the House is a Bill which ought to be accepted and if it is not to be accepted, in what respects it is defective and there ought to be changes. That none of them has at any time pointed out to us.

The last phase of the discussion is here, during the course of which mem-

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bers of this House will point out several aspects and make certain suggestions which no doubt will be useful to the government for consideration. Therefore, to that extent this last and final phase is an important part of the national debate which has been going on in the country for the last two months.

I was referring to the provision which said that nobody can question a constitutional amendment. It is based on a rationale which is perhaps intentionally not appreciated. The first thing is the constituent power of Parliament. The second thing is, even if an ordinary law is passed, the presumption is—this has been recognised by courts—in favour of constitutionality and that presumption of constitutionality should apply with greater force when, as a constituent body, Parliament makes an amendment to the Constitution. It is unthinkable that when according to a special procedure, with a rigidity which is naturally made applicable to the amendment of the fundamental law, Parliament by a special majority passes an amendment to the Constitution, somewhere else quite often by a bare majority of one vote it is said that the entire Parliament was wrong! That is what has happened in the past. I will not come to the provision, now, as to the minimum number of judges required. I am not on that point; but the point is that howsoever a court may be composed, of eminent, learned and distinguished judges and so on, it may be, the fact remains that it is the people sitting here, in this House and in the other House, who are responsible to the people, who are answerable to the people; not they who determine whether a certain amendment should be made or not, and whether an amendment is constitutional or not. That, to my mind, is one of the major features of this amendment.

May I now turn to the other aspect? We have been saying for quite some time that we have the Directive Principles in the Constitution so well-framed in the beginning. It may be that we need changes in these Directive Principles now; and there are some proposals for making these changes in this amending bill; but the point is that it was always regarded as axiomatic that when you make a law you should have regard to them. In fact there is a provision in the Constitution itself that they are fundamental to the governance of the country and for the making of laws by Parliament. These were not empty words or pious wishes. They oviously had a content—and when we consider, when anybody considers, when the courts consider the provisions of any law, the provisions of any constitutional amendment, one should have expected that equal attention, if not more attention, was given to this mandate in the existing provision in the Constitution *i.e.* that you have to have this fundamental guideline here; that in making laws and in governing the country; the Directive Principles are of fundamental importance. And yet; in case after case it has been said: "they may be fundamental; but the Fundamental Rights are more fundamental" and "they will be subordinate to the Directive Principles. Directive Principles are not justiciable." It may be so; it might have been said; rightly or wrongly. That is not the question. But the time has come when we have to set it right.

Then there are demands from the people that if these Directive Principles are not capable of being made effective, by law, then of course the Directive Principles lose all practical importance. If that is so, Sir, I am putting this as a very important highlight of the present amending bill and I say that we have made it clear in the earlier amendment, in article 31-C as it was then, as it is now; but as it was then sought to be amended, we dealt with only certain economic and social aspects. We have said that 39-B and C were among the Directive Principles. If they are sought to be enforced, the

Fundamental Rights will not supersede the Directive Principles; and any legislation to give effect to articles 39-B and C will be valid. We are now taking, according to me, a big step forward. We are saying: it is not only article 39-B and C, but all the Directive Principles; and that if they are to be implemented by legislation then Fundamental Rights mentioned in articles 14, 19 and 31—these are the substantial Fundamental Rights with which we are concerned so far as the Directive Principles are to be considered—will not come in the way of making any legislation which will give effect to any or all of the Directive Principles in the Constitution. To my mind, it is now a land-mark in the amending process which we have been following for the last few years and where for the first time Parliament will be enabled, by law, to give effect to the Directive Principles without any let or hindrance from the invocations of the Fundamental Rights under articles 19, 14 or 31.

In the course of the last month I have been meeting Opposition parties and, individuals; and some have expressed a doubt as to whether these will come in the way of minority rights. I have tried to explain to them, and I hope I have satisfied them, that these provisions cannot in any case affect minority rights. They have been precisely guaranteed in Part III; and they are not being superseded by the new Article now proposed to be made. Articles 14, 19 and 31 do not constitute a new feature. They are already there. The amendment which the Parliament carried out in the session in which the 25th Amendment was passed, where with regard to minority institutions a certain specific protection was given a new feature, will continue. But this is used quite often, not always, with a view to divert the attention of the people from the main issue, sometimes even genuinely and honestly. Therefore, I want to make it clear that this provision, which is no doubt a big step forward, does not at all affect our approach to the protection con- ne minorities and our secular ideals.

Then, some people, particularly those who are very legalistically minded, have not been able to appreciate the importance of the amendment to our Preamble. I am not talking of any legal argument. The legal arguments are many, and I think there is an effective legal answer to everyone of them. But the point is that we do not have the correct approach, we do not understand what is the significance of the introduction of the words "socialism" and "secularism". We are a sovereign democratic Republic. Now we have a proposal to introduce the words "socialism" and "secularism" in additon to the existing words. This is not a play of words. Because, everyone realises, at any rate a large portion of the thinking people realise, that the preamble is the key to the whole Constitution, when we interpret the Constitution, its letter, its provision. It is the most fundamental part of the Constitutional structure which gives direction to the whole Constitution, a direction to all that we do by law or otherwise. Even courts have taken note of the fact that the preamble, being the key to the Constitution, is something which you cannot ignore as an expression, as a desire made by Parliament or a legislative body.

Therefore, the objectives which we had always in view, namely, socialism and secularism, which we have tried to implement, will be more and more implemented and will be more accurately and correctly reflected in a basic part of our Constitution, namely, the Preamble. Let anyone say that 'socialism' or 'secularism' is incapable of definition. Well, if that argument were to be accepted, even 'democracy' in that sense is incapable of definition because, is it not understood in different ways in different countries? But, we understand what kind of democracy we stand for. In the same way, we understand what 'socialism' stands for and what 'secularism' stands for.

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Therefore, these criticisms are really intended to divert the attention from the main focus. The main objective of the amendment of the Preamble to my mind, is a very important and fundamental feature in the present amendment Bill to the Constitution.

Then, of course, we have a very new thing, the enumeration of duties, for which we are proposing to add a Chapter, which is not there now. It has always been regarded by all right-thinking people that if you are conscious of your rights, it is no less important that you must be equally conscious of your duties. For the first time, in the Constitution of our country we are proposing to incorporate them. Although it is there in some other Constitutions, while I do not want to criticise them, I think they are not so well developed as in our proposed amendment to the Constitution, where we have the duties given in a new Chapter, where we lay before our people their fundamental duties.

It is absoutely wrong to under-estimate the importance of such a formulation of duties for the people. Because, when you have the duties laid down, it becomes something which is vital to every citizen of India, and in the future care should be taken to see that in all stages of our education from the beginning to a later stage these duties form part of our educational curriculum. It may be that the students are told, the children are told what are the duties which the Constitution envisages; it may be that such an education may be necessary not only to children but it may be necessary even to grown up people, because it is high time that they read these duties and understand what is the basic principle underlying these duties. This, to my mind, is another important feature of the proposed constitutional amendments which are being laid before the House for consideration.

Of course, there are many other matters. There is a lot of, may I say, cynicism with regard to these proposals, but I am personally convinced that most of it is either for want of careful scrutiny of the proposals or for other motivations. Take the judiciary, for example. People have said that you are destroying the judiciary, because the independence of the judiciary will be finished when these amendments are passed. How? Because no provision in the present amendment has affected the status, the position, the dignity, the independence of the judiciary. The mere fact that by a provision you re-allocate or distribute matters in which jurisdiction or powers will be exercised certainly does not take away the independence of the judiciary or its dignity or status. In fact, courts have held that if Parliament says that a certain thing will not be called in question by courts, it does not affect their basic position. Even they who are not normally inclined to say this, have said this, but we should know that here we have something which does not affect or undermine in any way the independence or the dignity of the judiciary.

Then, of course, it has also been said that we are undermining the federal structure, but in what way nobody says, because we have still the two Houses of Parliament, we have still the States with independent legislatures, we have still the division of powers between the Union and the Centre, we have still the residuary powers with the Union. All the basic features of a federal State are there. I am not enumerating or making an exhaustive list, but I am indicating that all that is regarded as basic to a federal structure is there. No provision has been touched in the present amendments to the Constitution, and yet it is said that we are destroying the federal structure of the Constitution, but no one says how, they do not point out how. Of course, in certain respects—it does not touch the basic federal structure—here and there, there are re-allocations, some important matters having been brought from the State List to the Concurrent List. This re-allocation is part of a federal structure, and moreover, it is not going to be done unilaterally by the Union. After all, apart from the discusions outside the House, even after the Bill is passed, it will go to the State Legislatures for ratification. Therefore, it is part of a federal amending process, and when you re-allocate the functions and duties between the component units of a federation and the Union, that does not destroy the federal structure of the Constitution.

All these things have been said, at lesat by those who know these things, with a view to divert attention to something which is not relevant or because of some political motive. I am constrained to say this again and again because that has been the thrust of the criticism which has been made so far.

It has also been said that some of the powers of the Supreme Court and High Courts have been taken away. On the contrary, if at all, the powers have been to a certain extent widened, not taken away. In fact, even in matters where you should go in the first instance to the lower courts or tribunals, there is provision that the Supreme Court retains its powers of admitting an appeal by special leave, and the judicial review is still not taken away, rather is increased in respect of many matters. Yet, it is said that the courts' powers are taken away or curtailed. They will not emphasise this point, but I want to, that in regard to the High Courts, that part of article 226 which allows enforcement of fundamental rights have not been disturbed. In fact, any citizen who goes to the court and says that some provision of the Constitution has been violated can do so, and that has not been disturbed. For that matter, all the writs which are mentioned in that article are not disturbed. While not touching some of these important things, certain matters, where experience has shown that the Judges or the judiciary have been dragged into controversies by being asked to determine issues which really do not belong to their field, have now been taken away. Even there, an illegal act or omission is capable of being challenged in a court of law. Even an illegal decision by a judicial or a quasi-judicial tribunal is being capable of being questioned in a court of law, subject, of course, to this that there is a substantial failure of justice, because, after all, the courts are not there to enforce technicalities but to do substantial justice. That is the purpose, real function of any judicial institution. Can anyone who wants any such thing say that this is an encroachment on the powers of the High Court? I do not want to give instances here, I could give plenty when the time comes. But they have been dragged into matters which really do not belong to the judiciary. Therefore, we have confined the jurisdiction of the High Courts to areas on which really the judiciary should be called upon to adjudicate. The powers of the High Courts, I do not agree, have been in any fundamental way, jeopardised or minimised by the amendment of article 226. Of course, we have said that a Central law can be challenged only in the Supreme Court and a State law can be challenged in the High Court. But one thing is missed, that judicial review is not taken away. In fact, instead of judicial review of legislative action being taken to a High Court in case of a Central law, that judicial review of legislative action is still kept in fact. All that we insist on is that you go to the highest court of the land because a Central law is involved.

I do not wish to go into all these details at this stage. But what I want to emphasise is that basically the powers of the Supreme Court are not jeopardised, are not taken away in all matters in which really judicial action is justified. These are still left open and the courts will be entitled to go into all these questions. But certainly we not wish to drag courts into matters of controversy. That is why, for

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example, when we passed the Constitution Twenty-fifth Amendment Bill, we made certain provisions, keeping the courts out in respect of certain matters. Now, if this is a provision in the Constitution Forty-fourth Amendment Bill, I do not see how it could be legitimately said that we are going to take awav the powers of the judiciary.

There are a few other matters of broad significance. I would refer to only some of them. For example, it has been said that there is a provision to give to the President the power to amend the Constitution. Nothing can be more grossly wrong than this. This was, in fact, raised first in the foreign press. I was surprised that it was raised in the British press. I would perhaps not so much complain about the American press, because they are not aware of this. They could have seen it if they had carefully studied it. But the British were having it for the last 400 years, the Henry VIII clause in England. This is not a blanket power given to any single authority to amend the Constitution. In fact, our original article 392 contains such a clause. In subsequent amendments to the Constitution, to mention only one, when we passed the Bill relating to Sikkim, we had such a clause. We had such clauses in any number of ordinary pieces of legislation. England had it in evey piece of legislation.

The intention is not to enable one single authority to amend the Constitution. It is really a provision for removal of difficulties where you only say, "Here is a provision in the Constitution, it has to be given effect to and, for giving effect to, if there is a lacuna, I remove that lacuna so that the main provision in the Constitution is made effective." Therefore, no one can say and no President can say, "You have done this. But I want this to be done. Therefore, I will do it under my Constitution amending powers." Moreover, it is for a limited period. The original provision was also for a limited period This is a misapprehension, at any rate, something taken up to create an atmosphere of distrust with regard to the proposed amendments of the Constitution.

Many more things have been said. I think, I need not go into all these matters at this stage. I have referred broadly to all the matters which were relevant to a discussion of this type. I would only mention that even in the Constitution Assembly, when the Directive Principles were discussed, Mr. B. N. Rao who was the Constitution Adviser had said and had written that it was time to consider whether you should make the Fundamental Rights enforceable as against the supremacy of the Directive Principles and it may be desirable that the Directive Principles are not hampered, their implementation is not hampered, by giving the Fundamental Rights a position of supremacy over the Directive Principles. He has mentioned it in his book. He did not say it on his own although he thought so. He had gone round to study the Constitutions of the world. He had discussed it with very many eminent jurists in America and elsewhere who had advised him that you should not give the Fundamental Rights a place of supermacy over the Directive Principles. Even at that time it had been thought so, and after experience we have come to a situation where it becomes our duty to give the Directive Principles their place of primacy. No one can legitimately say that something very wrong is being done in the Constitution by bringing in these provisions to amend the Constitution.

This, broadly, is the perspective so far as the amendment of the Constitution is concerned. I will speak about the details, if necessary, after I have heard the discussion. All that I want to mention is that, when this Amendment Bill is passed, it will be the finest hour in the history of this Parliament, it will be a major step forward, more major than any other taken before not only in the history of our Constitution but in the history of our country We only hope that, with these changes, all of us will strive to go forward for the achievement of the main goal of socio-economic revolution in the country.

PROF S L SAKSENA (Maharajganj) On a point of order This House is not competent to discuss this Bill I have heard the argumens of Shri Gokhale These could very well have been given in the Constituent Assembly

MR SPEAKER The question of competence or constitutionality of anything cannot be raised as a point of order It is for the House to decide it is not for he Chair to decide So the hon Member can make this point while speaking Now the House can go ahead The Chair cannot decide on the legality or constitutionality of it, so, it cannot be raised as a point of order

Motion moved

> 'That the Bill further to amend the Constitution of India, be taken into consideration."

There are two amendments given notice of one is for circulation of the Bill for public opinion given notice of by Prof S L Saksena and the other for reference of the Bill to a Joint Committee given notice of by Shri M C Daga They can move their amendments

PROF S L SAKSENA I beg to move

> "That the Bill be circulated for the purpose of eliciting opinion thereon by the 30th November 1976" (270) This Bill is not an ordinary Bill. It takes away the three years of hard labour in the Constituent Assembly, from 1947 to 1950. The soul of the Constitution, articles 14 and 19 . .

MR SPEAKER You have moved your amendment That is all. You can speak later

Mr Daga

SHRI M C DAGA (Pali): I beg to move

> "That the Bill be referred to a Joint Committee of the Houses consisting of 46 Members (31 from Lok Sabha and 15 from Rajya Sabha) with the concurrence of the Rajya Sabha The names of the Members of Lok Sabha are as follows —
>
> Dr Henry Austin,
> Shri Raghunandan Lal Bhatia,
> Shri Sat Pal Kapur,
> Shri Chandulal Chandrakar,
> Shri Somnath Chatterjee,
> Shri H R Gokhale,
> Shri B K Daschowdhury,
> Shri Jambuwant Dhote,
> Shri Vasant Sathe,
> Shri Dinesh Chandra Goswami,
> Shri N E Horo,
> Shrimati Maya Ray,
> Shri R R Sharma,
> Shri Dinesh Joarder,
> Shri Bibhuti Mishra,
> Shri Priya Ranjan Das Munsi,
> Shri M C Daga,
> Shri O V Alagesan,
> Shri Aziz Imam,
> Shri Ramkanwar,
> Shri T Balakrishniah,
> Shri Dharnidhar Basumatari,
> Shri Jagdish Chandra Dixit,
> Shri P Narasimha Reddy,
> Shri Ram Singh Bhai,
> Shri Bhogendra Jha,
> Shri Balakrishna Venkanna Naik,

[Shri M. C. Daga]

Shri Shibban Lal Saksena,
Shri B. R. Shukla,
Shri Shanker Rao Savant,
Shri Ramsahai Pandey,

The Joint Committee should submit its report by the end of January, 1977". (271).

I have also already obtained the permission of the Members of Lok Sabha whose names I have given.

MR. SPEAKER: Before I call Shri Indrajit Gupta, I have to submit to the House that three days are allotted for this, that means twenty hours. The CPI time-limit is 56 minutes. I would request them to confine to this time, but if there is an important point yet to be made, I would consider that. Shri Indrajit Gupta:

SHRI INDRAJIT GUPTA (Alipore): Mr. Speaker, Sir, permit me to begin by saying that whatever hon. the Law Minister has said with regard to the main purpose and direction of this amending Bill, we have no quarrel with that whatsoever. In fact, our party has been pressing for a long time that the Constitution requires to be amended, to be radically amended, precisely in order to facilitate the advance that we all want towards a better and more equitable society, towards the achievement of socio-economic reforms in the interest of the vast majority of the people, and towards the removal of abstacles and hurdles which experience has proved, stand in the way of bringing about such reforms. To that extent, certain provisions in this Bill are welcome; our party supports them, and we would like, if possible, to strengthen some of them still further. At the same time, in my general remarks at this stage, I must say that it is not out of place; in fact, I think, it is in place, to recall briefly the political background in which this Bill has finally come up for consideration before this House. Frankly, till a day or two ago, we were not sure whether this Bill would come up for consideration at all. Now, it is one thing just to ignore everything that has happened in the last few days as though this Bill is coming forward in a very normal sort of way, but I think, that would not be doing justice to the forces which are operating, contradictory forces which are operating in the country and which are operating behind this struggle which has been going on for some years, at least from the year 1969, to which the hon. Minister referred, to bring about certain important changes which would facilitate essential socio-economic reforms. The struggle has been going on since 1969 at least. In our opinion the Constitution reflects to a large extent a sort of a compromise between the interest of the affluent or exploiting classes, the privileged classes in our society which naturally do not want to give up those privileges and the interests which actually are of the vast majority of people in this country—the toiling people, the wage earners, the poorer sections who want the Constitution to be amended more and more in such a direction that their rights and their interests would find proper and effective guarantees in the pages of the Constitution. We have not overcome this compromise yet. The present Bill will also not overcome that compromise, Shri Gokhale knows it very well, but to some extent an attempt is being made in that direction to reflect the aspirations and the interests of the vast majority. I do not know what the definitions of democracy are? They can be many. But certainly one meaning of democracy is 'rule by majority'. The interests of the majority should find expression, there is no doubt about that. A system which is based on the interests of the minority certainly cannot be a democracy. So to that extent this Bill is attempting to take us forward We certainly welcome it I must make a reference to the political background to which I was referring We find certain forces are expressing themselves quite openly in the country from semingly very opposite ends, with seemingly contradictory arguments, opposing arguments But the net result of both these arguments if accepted would amount to what? It would amount to the negation of that very aim which the Minister just now said we are pledged to support and that is the principle of supremacy of Parliament An argument is made that this Parliament is out dated has lost its moral right to amend the Constitution, is a rump Parliament and so on and so forth This is a line of argument which is being put forward by a certain section of opinion including the rightist parties including my friends of the CPM and so on The net meaning of it is this—the supremacy of this Parliament the right of this Parliament to amend the Constitution does not exist This is what they want to say

The other line of argument was put forward all of a sudden in the columns of the press We read that We were surprised The line of argument was the Constitution requires a thorough overhauling a complete overhauling and for that purpose also not this Parliament but a Constituent Assembly is required

Of course there is some overlapping in both the lines of arguments There are some people who support this and also support the other line But both the lines of argument want to say that this existing Parliament is out-dated it is a rump it has no moral right to amend the Constitution people did not give the mandate etc What they have said also means that the sovereignty, supremacy etc of the Parliament is challenged by them On the other hand the other seemingly radical line of thinking is that a new Constituent Assembly should be set up and these constitutional amendments should not now be taken up by this Parliament

As far as these friends are concerned who talk about this Parliament having lost its mandate and having no longer a constitutional right because its life has been extended by one year it is quite a good point for making demagogy I admit One could go and make speeches outside like that Our party is firm on this question We have said that there should not be any further prolongation of the life of this parliament We are very much opposed to that There is one of the clauses here which says that the life of the parliament should be extended from 5 years to 6 years which has not satisfied some members who have even tabled an amendment that it should be 7 years We are completely opposed to that We have made it clear that we want elections to be held When one year extension was sought for, we had said at that time, that we are giving this extension for one year on the understanding that an all out national effort will be made during this one year to implement the twenty point programme and other commitments We said if that is not done at the end of that one year the situation in the country would be much worse but we are against any further prolongation We want a healthy change because it will bring a new air a fresh air into the whole atmosphere of this country and so we said that the people should be given a chance to express themselves about it and nobody should be afraid of it But that apart I say this extended parliament is by no means unconstitutional because Parliament has a right to extend its life by one year at a time To these friends all I would say is that they should be consistent

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Mr. Madhu Limaye with whose line of argument I do not have the slightest agreement whatsoever at least had the courage of his convictions He said that the Parliament is unconstitutional and illegal and he submitted his resignation from the jail saying that he did not want to continue as member of this rump parliament which has lost its mandate But I do not understand members who go on indulging in boycotts and walk-outs and such things but they have not failed to register their attendence and to draw their daily allowance and their salaries They should at least have the courage which Mr Madhu Limaye had I do not mean to say that they should also tender their resignations but what I say is that they should come here and participate in these discussions and they should give their views here

Recently we find that certain Congress committees led by persons who are also members of the all-India Congress Committee, which all-India Congress Committee only a few days ago endorsed and enthusiastically supported the report of the Swaran Singh Committee have come up with a proposal that there should be a Constituent Assembly and that these changes should not be made by this Parliament I do not follow this at all

Mr Ghokhale has said just now what the Prime Minister said some days ago and repeated only yesterday and we share this opinion that the right of this Parliament to amend the constitution is supreme and unchallengable and we do not at all believe that there is any need for any change in the constitution for any Constituent Assembly to be brought in, unless it means that the very system of parliamentary democracy under which we have worked for so many years is meant to be changed There were some persons harping on the idea that there should be some presidential form of Government—an elected President, elected by the people. Such a system would necessarily mean the end of parliamentary supremacy. Parliament would become subordinate to the chief executive of the State Our party's stand was also made clear at that time I want to make it clear even now

13 hrs

In our country because we are talking always talking correctly about India with its specific conditions, with the specific make-up, with the specific composition, traditions, history and everything, nobody wants to imitate or copy anything from any other country Let it be quite clear that in a vast country like ours which is described as a sub-continent, with such a myriad of people belonging to different States, different cultures, different languages, different religious groups and so on, we do not believe that it is possible to preserve the national unity and integrity of this country by any system except parliamentary democracy which rests on the basis of representations to everybody to exchange views and consensus emerging from them which is the only way to keep this country together This country will not be kept together by any form of Presidential system, personal rule or authoritarian rule as that will lead rather to disintegration and fissiparous tendencies being encouraged to grow but, it is only by permitting the representatives of this vast country of ours to come and sit here together and to freely discuss and debate and exchange their views and then to act on the basis of whatever consensus emerges This country can be proud of the fact that this unity in diversity is what we have been able to achieve by this method If anybody is thinking of changing this system and, for that reason, if anyone goes on propagating that we should have wholesale changes to the Constitution, and for that purpose, a Constituent Assembly should be called, then this is something which, I think, is very very wrong and very dangerous.

I am glad that Government has decided to go ahead with the consideration of this Bill which asserts, as the Minister has said just now, the supremacy of Parliament.

Having said that, I wish to say one thing more because I am also not going to deal with the specific clauses at least now as this is not the time for it. There is a statement of objects and reasons, attached to this Bill, to every other Bill. It says, if I may quote:

> "It is, therefore, proposed to amend the Constitution to spell out expressly the high ideals of socialism, secularism and the integrity of the nation, to make the Directive principles more comprehensive and give them precedents over those fundamental rights which have been allowed to be relied upon to frustrate the socio-economic reforms for implementing the Directive Principles."

With this aim we are cent per cent in agreement and any clause in this Bill which has the aim of achieving this purpose, which is relevant for this purpose and which is necessary for this purpose, we are prepared to support. But, I am disappointed to find that, in the name of this amendment, so many other things have been brought in which have got nothing to do with this declared aim. Anything which is irrelevant to this Statement of Objects and Reasons and which has nothing to do with it, I submit, should not be, as it were, smuggled in under cover of this one compendious Bill. Socio-economic reforms, precedents of Directive Principles over certain fundamental rights and explicit commitment to certain ideals,—these are very good things. But, what has refixing the quorum of this House got to do with that; what has a proposal to extend the life of the House from five to six years got to do with that; what have the anti-national activities got to do with that; what have certain administrative things which are being introduced here, got to do with this? Therefore, Sir, we say that there are clauses which are directly linked with this Statement of Objects and Reasons and some of them can be further improved and modified to make them more effective. That is a different matter. We do understand and support them but we cannot support many of the other things which have been put into this one omnibus Bill which are unrelated to this Statement of Objects and Reasons.

13.05 hrs.

(MR. DEPUTY-SPEAKER *in the Chair*)

Having said that, Sir, let me make a few observations on some of the main features of the Bill. As far as the Preamble is concerned, the proposed change is welcome. We take it that it is a declaration of the objectives for which we must work. I take it that not even the ruling party or any Member of the ruling party claims that already we have got socialistic republic or socialism has already been achieved and this is merely describing the existing state of affairs. Sir, it is more in the nature of an ideal or an aim towards which we wish to go and something which was declared by the ruling party in its own manifesto 20 years ago. At the Avadi Session it had said—though in a different language—that this was the sort of objective for which they wanted to work. But after this long passage of time of two decades much has happened in the world and in this country. Sir, we welcome the inclusion of this in the Preamble of the Constitution of this country. At the same time we know that the common people of our country are more and more becoming attracted to, the idea of socialism whose concept may not be very clear. It is true it has not been defined. It is not possible to define it in detail,

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certainly not in a Constitution. The attractive power of the idea of socialist order or society and correspondingly the extent to which. I think, the capitalist system is getting discredited throughout the world all these things combined together make the people of our country aspire to a socialist order which should be spelt out in due course as to what it means and what it should mean.

I think this proposed amendment is reflecting the correct aspirations of most of the people of our country and, therefore, it is welcome here while at the same time we do not think simply by including these words in the Preamble will change the existing economic and social structure by itself. It cannot. It will not also change the structure of administration in this country. Therefore, I would suggest, if possible, at least in the Directive Principles some more concretisation should be attempted as to what we mean broadly by this word 'socialism' which we are introducing. There are all sorts of ideological views and some people are very averse to it but I would say while shunning and avoiding all rigid ideological conceptions of socialism and remembering that this word has been misused and abused by so many people—even the party of Adolf Hitler called itself National Socialist Party. You know what it was. So, national socialism, democratic socialism, etc. all these words are being used and, as such, I would suggest that when we are agreeing to put the word 'socialist' in our Constitution for the first time then at least in the Directive Principles some broad indication should be given of the kind of society towards which we are seeking to work. Sir, I would suggest for your consideration and the consideration of the House some of the things which Pandit Jawaharlal Nehru himself on more occasions than one had to say about it, both in various sessions of the Congress in his presidential addresses as well as in some of the letters he addressed to his daughter which were published. You can study them and see where he has said in one of this letters to Mrs. Gandhi:

> "Socialism, I have told you, is of many kinds. There is general agreement, however, that it aims at the control by the state of the means of production, that is, land, mines, factories and the like, and the means of distribution like railways etc. and also banks and similar institutions".

Not that we have not at all progressed in this direction; state ownership or public ownership of many of these is already accomplished. But Pandit Nehru, says:

> "The idea is that individuals should not be allowed to exploit any of these methods or institutions or the labour of others to their personal advantage. Today most *of these things* are privately owned and exploited"—

this was at the time he was writing—

> "With the result that a few prosper and grow rich while society as a whole suffers greatly and the masses remain poor"

and so on.

In another place, in his presidential address to the Lucknow Session of the Congress, Pandit Nehru said:

> "I am convinced that the only key to the solution of the world's problems, and of India's problems, lies in socialism. When I use the word 'socialism', I do so not in a vague, humanitarian way, but in a scientific, economic sense. Socialism is, however, something more than an economic doctrine. It is a philosophy of life and as such also it appeals to me".

Then he talked about the necessity of revolutionary changes in our political and social structure and so on, and said:

> "This means the ending of private property except in a restricted sense, and the replacement of the present profit system by a higher ideal of co-operative service".

I think it is not beyond the ingenuity of our drafters to combine some of these ideas which were expressed on so many occasions by no less a person than Pandit Nehru and include *in the directive principles* a suitable additional article which will give a broad indication of what is the way in which we want progress, having accepted socialism in the preamble Without that, it will be open to all sorts of interpretation by anybody who pleases. The most anti-socialist person also nowadays talks about socialism.

Along with this, I may also say that it is, in our opinion, a gross contradiction when having said this, having accepted this in the preamble of the Constitution, you leave untouched the fundamental right to property, right to property as a fundamental right. This, in our view, is something which is incongruous and contradictory. I do not know how many constitutions of the world have made property a fundamental right. I see no reason why in our country it should be kept as a fundamental right I know somebody will argue: 'what about small property holders? There are small peasants, workers, shopkeepers and so on. They will get alarmed if we say that fundamental right to property is no longer there'. I say, all right; but define at least that part of property, that category of property which is of an exploitative nature, the ownership of which permits profit and wealth to be accumulated in a few hands. Let that part at least be defined. I think what Pandit Nehru meant was that the right to property should remain in a restricted sense only. So let the category of property I described be removed from the fundamental rights chapter. It does not preclude a person from holding his own private house or private belongings or something he inherited from his father or something of that kind. That is a thing which can be defined. It is defined in many constitutions—the right to hold property of that kind, personal property. But how can you invest the whole of property including the property of big capitalists, big landlords, big, rich fellows *within* fundamental rights when just before that in the preamble you say that our aim is to reach a socialist society or a socialist republic? This is a contradiction and, therefore, we think that this fundamental rights chapter should exclude the right to at least that property which I have described. It is very welcome also that the word 'secular' is being introduced. We want to understand what is the significance behind this. Because our State is a secular State, our State respects and recognises, and gives equal rights to people belonging to all religions or faiths or to people of no religion, in law. I am not talking about implementation of the laws; that is a different matter. Many injustices and discriminatory things may go on, they do go on but in law our State is a secular democracy. Therefore, when the government itself has come forward to add the word 'secular', particularly here, I take it to mean something; I take it to mean that the secular aspect of our democracy requires to be strenghthened; otherwise it is superfluous to introduce this word here. Naturally when you pointedly want to bring this word to describe the Republic, although that position already exists in law, I take it that what we want to assure the people of all faiths and communities and religions

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particularly the minorities is that on our part we mean to take some further action, legislative and others, to strengthen and secularise the content of our democracy I do not know whether that is how the government has understood it; I should like the Minister later on to explain the object; otherwise we have already a secular state and we are not a theocratic or religious state like some neighbours of ours I think this is the positive meaning; otherwise it is meaningless So, it should be spelt out and explained in a way which will give some fresh assurance and confidence to the people of various communities and religions, especially minorities

I now come to the question of anti-national activities I have said earlier that we consider this to be an undesirable clause, apart from the fact that it is not given in the statement of objects and reasons, we feel that it is unnecessary Any action 'which is intended to bring about the cession of a part of the territory of India or the secession of a part of a territory of India or which disclaims questions threatens, disrupts or is intended to threaten or disrupt, the sovereignty and integrity of India or the security of the State or the unity of the nation " is covered already all these things are already covered by existing statutes The Unlawful Activities Prevention Act has been there on the statute book for years I remember the debate in this House which was held many years ago when Lal Bahadur Shastriji piloted that Bill here and we had a very exhaustive debate on that That statute covers these things explicitly I do not see any need to bring in this kind of a clause in our Constitution Sub-clause (iv) is a clause to which we are totally opposed, it says 'activities intended or which are part off a scheme which is intended to create internal disturbances or the disruption of public services." I have no doubt in my mind that if this sub-clause is passed, it will be utilised by the authorities who are vested with those powers to implement those things against the trade union movement, it will be used to suppress and penalise strikes and legitimate trade union activities for demands, all such activities will be brought within the ambit of this clause saying that there was intention to disrupt public services and so on What is it for? Is it meant for sabotage or acts of sabotage of public services, uprooting railway tracks, cutting telegraph wires? If so, it could be covered easily by a specific law writing down all those things But it should not be put here in this form which will give a handle to the bureaucracy and the officials acting according to their own sweet will as they are doing in so many places today to suppress normal trade union activity The All India Trade Union Congress, which is the oldest trade union organisation in this country, ten days ago held its thirtieth session in Jamshedpur in Bihar and we were not permitted even to hold a public meeting You should know that The District Magistrate of Singhbhum gave an order and the AITUC with 4000 delegates attending from all over the country was not permitted to hold a public meeting! We are at the mercy of such people Your intention may be one thing but the effect in the end will be something else because the type of bureaucratic organs which exist in this country I regret to say are certainly not attuned to any kind of socialist ideology or socialist outlook or socialist way of thinking We have already represented to the government and we had one or two rounds of very good discussion in a spirit of give and take I would seriously urge upon the government to reconsider this point and see that this is not put in here

In the directive principles, we welcome the addition of the two clauses about free legal aid to the economically backward pople and the provision for workers' participation in management of industry The second point is part of the 20 point programme but in the drafting of the 20 point programme, excuse me if I say that somebody has been very slipshod The words used there are "participation of workers in industry" What does it mean? They are participating in industry anyhow If they do not participate, the industry cannot run for a single minute That was not the idea I am sure But somebody who drafted it has done wrongly like that

THE MINISTER OF STEEL AND MINES (SHRI CHANDRAJIT YADAV) It is wrong It is workers participation in management

SHRI INDRAJIT GUPTA Read the official text of the 20 point programme I welcome the proposal to insert the following article

> 'The State shall take steps by suitable legislation or in any other way to secure the participation of workers in the management of undertakings establishments or other organisations engaged in any industry'

This is the correct position and I welcome it I would also recommend that one more clause should be added in the directive principles Just as you are recognising the right of workers to participate in management of industry their right to have their disputes settled by collective bargaining should be put in the directive principles Perhaps many friends cannot appreciate what I am saying In this country there is at present no law which compels an employer to enter into collective bargaining with the representatives of the trade unions of his workmen There is no such law because collective bargaining implies recognition of a trade union or more trade unions as the spokesmen of the workers, which many employers do not want even to this day There is no law and collective bargaining depends on the sweet will of the managements from place to place Therefore I would like this to be put in at least in the directive principles, so that in future we may consider whether some suitable legislation could also be made Collective bargaining is a very good and healthy thing It should not require to be emphasised so much because it is a common practice in all industrialised countries We are also now becoming an industrialized country The best alternative to having all sorts of other kinds of trouble is to have collective bargaining Later on we can spell it out We can have a separate legislation for it But I can tell you and I am sorry to say—I do not know whether the Prime Minister is aware of this—that during this period of Emergency, the first major casualty has been collective bargaining that is to say that even in those institutions and organizations where some employers used to practise collective bargaining and negotiations with the Unions earlier to the Emergency the advantage of the Emergency to give up that practice and to say "We would not talk to you" because they knew that the workers could not go on strikes or do anything now So, why talk to them? This is not producing a healthy state of affairs in the mind of the workers I would suggest that the right of collective bargaining should be put here

I would also suggest as a Directive Principle another thing It has now become a very important question on which many people in this House are also exercised viz the right of the youth of this country to participate in physical culture and sports Let us put it there now Let it remain a Directive Principle People are exercised about it The hon Speaker has set up a Committee about it One of the main problems that they are grappling with is this question Of

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course it is a big question; the youth of this country can be involved more and more in basic physical culture and sports, so that our country can at least improve its performance—in the eyes of the world also.

Then, Sir, about Fundamental Duties I do not want to say much. Originally there were some penalties going to be attached to it; but since those penalties have been dropped, I do not have much to say; but I think you can keep it as a kind of declaration; and certainly I have nothing against those things. People should be educated in regard to them. I agree.

So far as amendments to Article 226 are concerned, insofar as they will have the effect and insofar as they have the intention of denying the right to certain vested interests to misuse Article 226 in order to safeguard their privileges—that is the main intention, I think; and that battle has been going on since 1969—if you want to strengthen the fight, I would say: "please consider the question of the fundamental right to property." So long as the fundamental right to property, unqualified, remains in that Chapter, it will always give a handle to the propertied and vested interests and richer classes to try and obstruct socio-economic reforms and progressive legislation. There are enough lawyers and enough very competent lawyers and ingenious lawyers in this country who can think up various loopholes and points by which—they may not be able ultimately to prevent the thing going through—they can delay and obstruct things for a considerable time To that extent, the amendments suggested to Article 226, we are in favour of. But the fact remains that experience since Independence shows this—this Article is open to everybody; a common man can also seek relief under Article 226 and sometimes he has got relief; that cannot be denied. The workers and the employees have got relief—that in the overwhelming majority of cases, Article 226 has been invoked by the vested interests, by the propertied classes and by the richer sections who can also afford the process of prolonged litigation and who can go up to Supreme Court without any difficulty—which is something the poor man in the country cannot do. Therefore, while agreeing with that aspect of it, I would also request the hon. Law Minister to think over this clause a little more deeply, i.e. as to how at the same time some adequate safeguards can be provided for individuals in the case of arbitrary orders or of bureaucratic excesses committed, of unjust orders passed and so on. Something has been put there, but in my view this is not adequate. You say "redress of any injury of a substantial nature by reason of the contravention of any other provision of this Constitution or any provision of any enactment... " I think we should put in words like "where the legitimate interests of the people so required" or something like that. I am not a lawyer and so I cannot suggest anything just now straightway. We will table some amendments I would request the hon. Minister to think over this matter. Since the aim is to remove hurdles and road blocks to socio-economic reforms, it should not deprive the ordinary common people, the working people and so on, of some relief and protection of their legitimate rights.

Then, as I have said earlier, what about all those other clauses which not only do not fit in with the declared aim of the Bill but which only go to strengthen further the executive and to arm it with more and more powers? The original struggle, as it were, if you call it a struggle, was between the respective rights of Parliament and judiciary. This battle has been going on, it is still going on, and it is being agitated every day. It has recently been appearing in the press considerably. Some people do not seem to be bothered about anything else; they are bothered about one point, that the judiciary is being finished, that the judiciary would be the absolute sufferers They are not bothered about anything else On that point I think we stand on the same side as you But, at the same time, I do not want the executive to be strengthened either, at the cost of Parliament I certainly do not want it Why should the executive be strengthened at the cost of Parliament? Some such things will come through some of these clauses

For example, there is the question about disqualification of members The Constitution, as it stands at present, makes the decision of the President, in the case of Parliament, and Governor in the case of State Legislatures, final But it makes it incumbent upon the President or the Governor to consult the Election Commission and to be guided by their advice Now that is sought to be removed Why? It is sought to be replaced by a Committee consisting of some members of this House and that House We do not consider this to be satisfactory, because this is going to be a part of the Constitution It means that whatever or which ever Government is in power can pack that committee with its own people, its own nominees and certainly that is not a better thing

SHRI H R GOKHALE There is a misunderstanding There is no provision for a Committee

SHRI INDRAJIT GUPTA If it is only the President, then it is still worse So please do not depart from some established things which have got at least some kind of democratic safeguards It may not be very perfect or very good, but it should not be given up

Then, what is the great urgency about it? We heard the lectures which were delivered by Shri Raghu Ramaiah about the special session, urgent session and all that I am all for it when it relates to the basic thing But, please tell me, what is so urgent and serious about the disqualification of members or the alteration of the quorum of the House? Can he tell me what is urgent about them? Can these things not be held over? Let us pass the main proposals, the basic urgent proposals which you have brought forward Why tag on to it so many other things which we cannot support and which we will have to oppose, and which certainly do not fit in with the structure of the Bill or its declared objects and reasons?

Then, coming to tribunals, I having nothing against tribunals as such Because if they function in a particular way, they may really give quicker and perhaps more objective remedies than courts, where you have long and prolonged litigation But it is of the greatest importance, particularly in the case of service tribunals, administrative tribunals dealing with Government employees, employees of the public sector and so on, that they must be of a nature which command the confidence of those employees Nothing is indicated here If these tribunals are only going to consist of so-called judicial people then what is the improvement, what is the change you bring about? Nothing So, we would like some indication to be given—you may not spell it out in detail here, I agree—that the composition of these tribunals will be of such and such a character That means some judicial people will certainly be there, but there must be some representative of the employees also there, there must be some public people, some eminent people of public standing in it Some indication should be given

There is widespread apprehension I may tell you, among Government servants at various levels as to what is going to come out of it, because here nothing is spelt out, and the procedure is going to be, as I have understood

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it from Government, that each time a particular tribunal for a particular purpose is to be constituted a special Bill will be brought for that, and in that Bill it will be spelt out as to how the composition of that tribunal is going to be determined That is all right but I am saying that as you are making this part and parcel of the Constitution please give some indication, some assurance in some broad way, that these tribunals will be of a nature which will command their confidence,—of course, you cannot say that in writing here—that they will not consist only of judicial people or only of Government officers Suppose you set up a service tribunal consisting of only high Government officers Which Government employee will have a shred of confidence in it? Therefore, I say this is very important You are dealing here with lakhs of people whose daily labour is running the Government

Then, if you do set up these tribunals you should not restrict their powers I say that all disputes or all matters which arise, whether relating to promotions, transfers, postings, appointments, recruitment or conditions of service all disputes arising out of action taken under article 311(2) should be referred to this tribunal There should be a right of appeal in these cases because the question of dismissals disciplinary action even removal from service without giving any reason all these things will be there

SHRI S M BANERJEE (Kanpur) Removal and dismissal will not be there

SHRI INDRAJIT GUPTA Mr Om Mehta has gone on record in a statement which I read in the papers where he has said that to such service tribunals, transfers promotions postings and other matters under article 311(2) will not be referred So please be clear about it, as to what you want to do the scope and function of these tribunals, their composition and their powers Otherwise, unnecessarily very widespread apprehension is being created in the country

Then there is the question of the deployment of the Central Armed Forces I have not understood what it has to do with socio-economic reforms Explain to me, I am willing to listen But you should make quite sure that it will promote national integrity or unity, and not lead to some unnecessary new grounds of friction between State Governments and the Centre Up till now the position is that the Central Armed Forces are deployed at the request of the State Government You want to do away with that all right Then the second part is that while these Central Armed Forces operate in a State, at present they are under the direct control and supervision of the State Government You want to do away with that That means that the Central Armed Forces can be sent to any State whenever the Centre so chooses, irrespective of what the State Government feel and while these Armed Forces operate there, they will be exclusively under the control of the Centre Must you put that in the Constitution which is talking about socialism and all that? You bring a separate legislation if you want let us discuss it Do not smuggle these things in under cover of this Bill that is what I am saying Anyway we are opposed to it The idea does not seem to be very good to us because we are apprehensive that it may lead to some unhealthy situations in which there may be some irritating factors in the relations between the States and the Centre Upto now this has served very well Whenever a situation has arisen, the State Governments have asked for help and you have sent help

Similarly there is the question of this amendment to increase the life of the Lok Sabha from five to six years Why? What is the rationale behind it? That has not been explained Is this just a whim or what? Suddenly, somebody says why fiv years; let us make it six years. Shri Bibhuti Mishra tables an amendment saying, why six years; let us make it seven years. I can also table an amendment saying, why seven years; let us make it ten years. Is there any rationale behind it? We do not think these are very good things. These are very incongruous things. They do not fit in with the lofty ideals and principles on which we want to go to the people with this Bill.

Of course, Mr. Gokhale has been good enough to try to explain about clause 59, about the power of the President to modify or alter the provisions of the Constitution in order to implement them, if there are difficulties in their implementation. I do not know why this is necessary just now. Has it created such a difficulty over in the past? We were told of one example, that is, whether the President should first administer the oath to the Chief Justice of the Supreme Court or the Chief Justice of the Supreme Court should first administer the oath to the President. This created some difficulty at one time because both are supposed to administer the oath to each other. This is a single example which has been cited. Please tell us if there are any more such examples.

When Mr. Subba Rao was campaigning for the Presidentship, he went about saying, "Oh; I am not going to be a puppet. If I am elected, I will be independent. Why should I be bound—there is another clause for it—by the advice of the Council of Ministers? If they give good advice, I take it. If I do not like their advice, I do not take it." So what? Why bother about one individual going about and airing his views in the country?

So, on all these questions, we request you to please do not be in such a hurry to put all these things through. For one thing, they are not so urgent and immediately necessary.

Then, there is the question of partial Emergency or Emergency over the whole country or regional Emergency in one part of the country only. Is it so necessary just now? The whole country is under Emergency at the moment. Why do you want to put all these things here? When you are talking about these things here, then change the Statement of Objects and Reasons. That is why the people are also prone to suspect your motives though some of these people are not worried at all about these things. The strange thing is that many of the critics outside are not worried about any of these things. They are worried only about judiciary. They do not care what else you do. They still have the hopes that unfettered judiciary, with unfettered powers, is the best safeguard for them to hold on to certain privileges and to prevent any socio-economic progress. I can understand them. They have been holding so many seminars and meetings recently. They should be allowed to speak freely and give their views. We should meet their arguments by proper arguments. Let the people judge. The people of our country are not so immature. They understand very well the forces which are fighting each other.

In conclusion, I would say that as far as your proposals which fit in very well with the declared aims are concerned, in the Statement of Objects and Reasons, we are all for them. May be we will suggest some improvements and further strengthening of them which I would request you to consider. But some of these things which go to strengthen only the powers of the executive, some of the things which are totally irrelevant, in our opinion, for this Bill, some of the things which are not at all necessary and urgent just now, let not all of them be mixed up together. You are talking so much about not diverting the attention by having Calling Attention Notice and all that. But you want to divert the people's attention to such things, like, the life of an M.P. should be six years, instead of five years. Is that not diversion? By saying that you want to send the Central armed forces to a State, is it not diverting the attention of the

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people from the main thrust of the Bill? Do not divert. Our suggestion is this, and nothing will be lost by doing that. Please pick out from this Bill—and we are prepared to help you in that matter—those clauses which really fit in and go with the main aim and purpose of this Bill. Let us pass those and we will fully cooperate with you in that. Let all those other multifarious things, all kinds of things—it is a hotch potch—be withdrawn for the time being You may keep them pending. Let us have further discussion and deliberation on those. You can bring them later, if you insist. Some of them can be brought even in the form of separate Bills, laws, not necessarily as part of the Constitution I have indicated that. This Bill, as it is, includes in that some provisions which were never a part of Swaran Singh Committee's report; it is a very strange thing which we can never understand. The Swaran Singh Committee presented certain recommendations; they discussed with us also, they discussed with others; the recommendations were discussed throughout the country; the Congress bodies at the various levels discussed them, endorsed them; and the recommendations were passed in the AICC meeting After that, suddenly, some more Clauses have been added which the Swaran Singh Committee never sponsored We do not support those things; we will have to object to those and, if necessary, vote against those things Why do you put us in this difficulty? On the main purpose of the Bill, on the main aim and objects of the Bill, we are one with you. Let us strengthen those and pass them Let us keep the balance of the things pending. That will be a better indication of proper statesmanship and wisdom at this stage.

SHRI K. HANUMANTHAIYA (Bangalore): In the discussion that is taking place all over India and in this House as well, frequently references are made to the Constituent Assembly and to those who participated in the proceedings of that Assembly. A few people are still left in this House who were Members of the Constituent Assembly. I may be pardoned if I do a little recollecting work in the context of the amendments that have been brought for the approval of the House.

The Constituent Assembly met with Members who were fresh from the battle of freedom. They had a particular psychology; for about half a century, in their lives, they had experienced bitterness against the then Government. It was imperialistic and restricted the rights and liberties of the people to a degree that made the people revolt against that system, against those laws, against those orders and procedures. Since most of the rights had been curtailed, whether it was of press or individual liberty or political liberty, the Constituent Assembly met in a mood to safeguard those rights and liberties. As you know, the whole life is a series of actions and reactions, and the reaction which was uppermost in the minds of the members of the Constituent Assembly then was to safeguard those rights. Therefore, they erred on the side of liberality in the incorporation of rights in the Constitution. Rights were guaranteed even to the then Indian Civil Service people, though it was not in the interest of the nation Therefore, this scrable for incorporating as many rights as possible in the Constitution. It inevitably led to the situation that they had to be amended when Government and Parliament thought of the responsibility to the people and to the nation Sir, the same extreme position that the Assembly took in the matter of rights, should not be taken by the present Parliament in the matter of duties or obligations. There must be healthy balance; that is the way, we have to look at the problem instead of being guided by reactions one way or the other to extreme positions.

The second mistake done by us in the Constituent Assembly was to incorporate, because of these rights and various other things, as many items as possible even salaries in the Constitution which could have been with various legislative measures. Very wisely, the Law Minister observed that the Constitution is the law of laws. But if you see the present Constitution, you will find that many laws have also been added the law of laws. This is one of the mistakes that has been done. That is why, the necessity arose to frequently amend the Constitution. The same mistake should not be committed this time also.

People question the right to amend the Constitution by Parliament When Article 368 was being discussed in the Constituent Assembly, I still remember that there was not a single member in that House from any party—and there were any number of people not Congress or socialists—who raised the question that Parliament would not have the authority to amend the Constitution, whether basic or otherwise Therefore, the intention of the framers of the Constitution has to weigh with legal people. They have to see that not even one voice was raised against the right of Parliament to amend the Constitution at that time We were sure that amendments would be required subsequently In the Constituent Assembly after the Constitution had been almost adopted, the then President, Dr Rajendra Parsad, allowed a number of speeches to be made by the members by way of peroration Several members pointed out the deficiencies of the Constitution that had been framed I, for one, said that what we wanted was music of the veena and what has been given to us is a jazz band I felt at that time that the Constitution so framed did not fit in with the time to come, things to come, with our culture and with our civilization Somehow, we were overhasty in incorporating clauses from various Constitutions into our Constitution, thereby exhibiting our learning our capacity to read and observe The question is, whether we really observed the true meaning of Indian culture, of the needs of the situation and what is necessary from the point of view of common sense. In the drafting committee, you will find eminent advices and people who had made great name in the legal world: but they had not made such a great name either in the freedom battle, or in the service of the people as Gandhiji or Nehru or other leaders had done But it happened I would say that we have still to think that what is amended today may be amended subsequently by some other Parliament There is no finality in this matter. We have just to find remedies, appropriate to the occasion and appropriate to the times. I would request the Law Minister to examine, whether, having conceded that this is law of laws, he is not including many laws in it It is an inconsistent proposition from his own standpoint

Thirdly, we in the Constituent Assembly, opted for a democracy of multi-party system Any individual or a set of individuals are free to organise parties and contest elections. That is one of the fundamental features of our democracy We have to see that such liberty to organise themselves on political basis is guaranteed unless it is directly hostile to national unity or to what is called the well being of the people It may be that a particular ideology is good today I am myself convinced that the prevailing mood of the country is socialism I have become a Member of the Congress Party with full conviction that it is a right idea But whether this conviction should necessarily be imposed upon others is a point for consideration I will give an instance If somebody tomorrow wants to organise a political party on the basis of a Sarvodya ideal which was sponsored by Gandhiji, would it be Constitutionally permissible? So we have to see the implication of the inclusion of certain words After all we are democratic people If democracy has to work in the legal and full sense of the term, we have to keep many doors open We should not

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shut all doors altogether and make people feel that they are not free to organise political parties, when they are in the interests of the country. Personally, I have no objection to whatever the House accepts. The essence of democracy is that anyone of us individually cannot go on saying that only our opinion must prevail. If such an attitude is taken, there will be no party system, much less a democracy. It is the majority opinion that has to be gentlemanly accepted. Whatever the House decides in its wisdom, will have to be accepted. If this attitude had been adopted by the opposition parties, there would not have been these laws, curtailing what they call their liberties. The essence of democracy, majority rule, has been given a go-by. Individual convictions, fancies and guesses have continuously ruled their hearts and minds for the last many years That is the reason why they have not been able to build up an effective opposition party—a party growing to such strength as to be a majority on the floor of the House

If they plead that they are better democrats than we in the Congress party, they should have participated in the discussion Instead of participating in the discussion and doing justice to the democratic ways, if they walk out, and fail to use the floor of the House, I can only say that they are not playing the game, the game, of democracy

Mahatma Gandhi enunciated that we have to convert people through love and affection If you go on irritating Congress party and its leaders continuously by propaganda inside and outside the country, that is not the way of conversion It is the way of frustration and anger It injures their own cause It is surely not the way of convincing the opposite party. I very much wish that wedded as we are to the multi-party system, to the existence of the opposition party or parties, we all play the game of politics properly. When important constitutional amendments are being discussed, they do not care to exercise their right to speak, their authority on leaders of political parties, and their debating acumen. They surely have their personality which could impress the House. They have arguments, I am sure, which will make at least a few members here to nod in approval. That approach has to be adopted by the opposition parties if they want to make a success of democracy about which they say, we of the Congress have failed.

14 hrs.

The hon. Member over there said that much of the attention is concentrated on the courts. In litigation as in biology evolution is taking place. Evolution is progressive specialisation. Specialisation is going on at all levels and places. That is law of nature. There is no progress without specialisation. There was a time when the King was the Chief Justice, the Commander-in-Chief and also the Religious Head; that was because the functions of the Government were then so few; the kingdom was so small; so the king could afford to be everything under the sun But as specialisation set in, the head of the army became separate; the head of judiciary became separate Science was only one subject in the time of Aristotle and in the time of Pluto. There was no separate physics or chemistry and so on As specialisation grew and grew rapidly, science became divided into so many separate branches. There are now hundreds of such branches, with their own nomenclatures.

In the judiciary also, the need for specialisation has arisen. To begin with disputes were either civil or criminal Subsequently they have grown in variety and number. As the activities of government and society increase, the disputes also grow in number and variety. Judiciary has to reflect this growing specialisation in the field of litigation They are not able to manage every type of cases by themselves Therefore we propose to distribute the work of the judiciary either to the tribunals or to various specialised authorities This is in the nature of biological evolution through specialisation.

Here I want to be a little frank, I hope those who are very judiciary-conscious may not get frightened. There can never be equality between the judiciary, executive and parliament It may be that some hundred years ago a political philosopher devised the formula, of equality, and America might have adopted such a system In this Parliament how are we to say that the Parliament today is supreme? Apply three tests The power of appointment, the power of dismissal, the power of payment of salary These are the three criteria All these are by Parliament The executive is the creature of parliament Even the Prime Minister however powerful he may be, if once he loses majority in Parliament, he has to quit That is why there is the provision of no-confidence in the ministry Therefore neither the executive nor the judiciary can claim equality with the parliament Parliament is the supreme authority I am glad that this truth has been very ably upheld by the Prime Minister in her own mellifluous and convincing manner She has said that we have to reestablish the sovereignty of parliament

There is another aspect of the matter As you go on in the socialistic way, the executive necessarily has to become strong In the early days of capitalism all that the Government did was to protect life and property and only by way of side-work take up education Now-a-days even the food we eat and the cloth we wear are subjects to be handled by the Government The people are promised proper distribution, the weaker section has to be protected

I was wondering when the Communist Leader, Shri Indrajit Gupta was advocating against strengthening the Government whether he was thinking in terms of real socialism or thinking temporarily that the present Prime Minister should get more powers than necessary The Prime Minister may be from his party when his party comes to power Then, they will introduce what is called 'proletarian dictatorship' All executive powers, Parliament's powers, judicial powers and everything else will be in hands of the dictator But, fortunately, we, in the Congress, have certain ideals and goals which are not necessarily those of the Communist Party (Marxist) or the C P I If there are some common ground we come together But, that does not mean that they can bamboozle the Congress Party into their ways of thinking, into their ways of acting For example, even this idea of 'collective bargaining' is out of date When the Government itself has taken the work of proper distribution of income and profit, how can there be collective bargaining?

In one breath, you want to entrust Government with the responsibility of doing economic justice, social justice while in the other breath you want to take away power and responsibility to do it If you feel aggrieved against a person, you will have to file a complaint to the police You cannot take the law in your own hands This is a simple way of explaining the truth

In socialistic countries which I have visited, there is, what is called, bargaining, strike or lock-out I must welcome the provision of the duties of a citizen Nobody should be allowed to harm or damage public property But, it has been done several times The hon Members know that

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that is being done by the trade unionists in West Bengal. In the Durgapur Plant, they broke several machineries and production had to be stopped several times.

They plead for the collective bargaining ideology and at the same time they plead that the means of production must be owned by the States. They do not hesitate to break and do violence to public sector property. (*Interruptions*). When a property has been nationalised according to the tenets of those very people, acts of their's such as to break the machinery, to injure public property and stop production, are all out of place.

The hon. Member from Bengal, Shri Indrajit Gupta is not here. He opposed the clause authorising the Central Government to send troops or police into States This step was necessitated by the State of West Bengal from which my hon. friend hails. When the C P. I. Ministry ruled for a few years, what artocities took place and what damage was done to property and how many people were killed—everybody knows. Because there was no such provision, this very Prime Minister who has brought forward the proposal. had no power then to send police to that State to maintain law and order. So. situations have arisen which he conveniently forgets. His own party did it all at that time It did great damage to his own State. After all Government of India is not something foreign to India. It corsits of elected representatives of the people of India The Government commands the confidence of Parliament and it represent the country

If you want to safeguard what is called the law and order position, maintain progressive production certain steps are necessary, they are necessary in the interest of socialism by which the Communist Party swears.

Many of us in this country feel and, I speak on a non-party level, that the present Prime Minister is doing many things well in the present state of affairs. It is true, I shall give you in one sentence my assessment of the situation. I was working in various capacities—I was a Member of Parliament also—when Pandit Nehru was our Prime Minister.

I have seen the present Prime Minister also at work. Jawahar Lal Nehru was a Fabian socialist. People who have studied socialism know what Fabian socialism means. It is a slow moving method of achieving socialism. The present Prime Minister is a fast going socialist. She is going fast. Having been in the Congress for quite some time, sometimes I feel perturbed about some legislations. Then I think cooly and I find that afterall those legislations are meant for the protection of the poor people, and to see that rich do not become richer and as far as possible to establish equality in the economic area.

This very idea was being preached by Mahatma Gandhi He was always for the poor much more than many of us who profess socialism. Socialism for many of us became a 'kirtana' of Tulsidas without understanding the meaning of it Therefore, Sir, if we are going a little fast in the direction of achieving socialism, it is welcome

Even our very religion—whether Islam, Hinduism or Buddhism—pleads for the poor Christ said:

> "It is more difficult for a rich man to enter the gates of heaven than for a camel to pass through the eye of a needle."

Gandhiji used to say: 'Patit Pawan Sita Ram'. It is the poor and the down-trodden that God has to protect Let us make the poor a little more happy. Socialism does much more in this direction and, as such, many of us have accepted socialism as our ideology but nothing should be done by compulsion, we should not even by law, limit the functioning of Democratic parties This is my plea and this may be considered on its own merits

Many people take objection to 'duties' being incorporated in the Constitution I quoted before the Swaran Singh Committee that Mahatma Gandhi himself said that duties and rights are the two facets of the same coin As I said earlier, in our anxiety to safeguard rights we forget duties If duties are remembered, today it is a welcome move and I wholeheartedly welcome the inclusion of duties All I suggest is that some of those clauses are vaguely worded and are repetitive and they are to be suitably worded I think in order to make the duties precise and sharp they have to be re-drawn appropriately

Sir this is a Bill which has 60 clauses—if you include the first clause There are 59 amendments Our duty is to examine this large number of amendments I therefore, plead that Government must devise some way of considering clause by clause and the implications of each amendment

I do not know in what way they could do it If I suggest a Select Committee the consequence will be that this session of Parliament, specially called for the purpose cannot pass it it will have to go to the next session Therefore there is that difficulty But this is not a new subject Most of the members know it They have discussed it They have been advised about it It is not therefore such a difficult subject or a new subject for people to want time for the purpose of expressing their opinion or exercising their judgement Therefore, I hope Shri Raghu Ramaiah will be able to find some *via-media* whereby every aspect is thoroughly discussed and at the same time the Bill is passed as soon as possible But if it is straightway passed, as we know it is likely in the reality of parliamentary proceedings, nobody in the party can vote against a government proposition, even when we differ It is the way of the party system I do not blame it also—please understand that I do not blame it That is the way parties work But we cannot exercise our judgment fully in the process

Therefore, in the matter of constitution-making there must be a little departure from routine method All those who feel that a particular amendment needs modification or deletion or addition have to be given full opportunity I hope that will be done by the Minister concerned particularly the Chief Whip

This is the stage in which we discuss general principles only Therefore I have laid down, according to me, certain well-known principles for considering constitution amendments I hope some consideration will be shown by the Ministers concerned

SHRI SEZHIYAN (Kumbakonam) Mr Deputy-Speaker, some of us in the opposition ranks received in the first week of August a letter from the Minister of Parliamentary Affairs inviting us to come and discuss with the Law Minister, Shri Gokhale, certain amendments to the Constitution With that was enclosed a copy of the Swaran Singh Committee Report To that invitation, I sent a reply on 12 August, 1976 In that letter, I set out our view on the proposed amendments to the Constitution Therein I had said

> I feel that the Constitution should not be a rigid and closed document and that it should be amenable for improvement on the basis of experience and of requirements But we should see whether or not a proposal for a constitutional change will be for enriching the basic features of a democratic and free society for which the Constitution has been made and handed over to us".

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I also said:

> "It is imperative that there should be a wide and free discussion before enactment of any important legislation, more so a constitutional amendment."

Then I dealt with the other points raised, especially the assurances and the announcements made by the Prime Minister and that others that a nation-wide debate would be assured and no hurry or haste would be shown in amending the Constitution. Today also when he moved the Motion for consideration of the Bill, the Minister of Law, Shri Gokhale, said that there had been ample and adequate discussion of this matter outside and many points of view, including the Opposition points of view, were also put forth to the public. I beg to differ from him on this point. The assertion that there had been wide, free and frank discussion on this amendment is true only as far as the Swaran Singh Committee report is concerned; that report says:

> "The method of working adopted by the committee was to formulate its proposals in the first instance in tentative form and publicise them through the Press and radio so that there could be a national debate on that. The proposals of the committee received wide notice in the Press and in different forums. Several newspapers editorially commented on them and some carried special articles......"

Freedom of expression in respect of the committee's report was allowed, if opinions expressed were in favour of the Swaran Singh Committee's report; I regret to say this The Opposition parties have not been given the same facilities or opportunities to have a national debate. In the letter I wrote, I stated:

> "It is true that the Prime Minister called for a national debate and also assured that there would be no hurry in considering the constitutional amendments. I am pained to point out that there has been no atmosphere for a free discussion of the constitutional amendments."

There also I have mentioned this point. The DMK Party to which I have the honour to belong had already set up a committee under the Chairmanship of Mr. Madhavan and they had made some tentative proposals. But those proposals could not be publicised. We cannot put them before our general council because many of the members of our general council are incarcerated in jail, fifty per cent of the members of the working committee are in jail. Out of 16 district secretaries, 12 are in jail. To formulate proposals or a report, first they should be able to consider among themselves and their colleagues. That has not been possible. We should be able to go to the people and discuss these things in some forum; no forum had been made available to us.

It is true that for the past two weeks some publicity had been given; a few newspapers have covered the views expressed by the Opposition as well as the ruling party members; it is a mercy granted, it is not a right allowed.

SHRI S. A. SHAMIM (Srinagar): Their advertisements had been stopped.

SHRI SEZHIYAN: We have not been given the facility so that we could speak out with the people. Before I know what the people thought on the constitutional amendments, how can I hold any discussion? How can we give our considered opinion when the Bill comes before the House?

About a week ago there was a seminar in Vithalbhai Patel House; the Opposition parties had their say and the ruling party members had their say; some publicity was given to that; but that was only a short duration. Six long months were given to the Swaran Singh Committee to publicise their tentative proposals through Press and radio and public forums. Were these facilities given to the opposition also to express their views or to point out to the people that such things are wrong and should not be done or some other things which are right should be done to make the Constitution workable?

There is a National Review Committee to review the Constitution and it consists of M/s. M. C. Chagla, Santhanam, V. M. Tarkunde, H. V. Kamath, Shanti Bhushan, Babubhai Patel, Dr. Dastur and myself, with Krishna Kant as conveners. This committee wanted to hold a seminar about a month ago. Permission was not granted, it was refused. In certain places where permission was granted, meetings were later on banned. I come to a recent occurrence. The Bill had already been introduced on 2nd September. We wanted to discuss it. We are not allowed to hold public meetings in Tamil Nadu. At last on 17 September and 19 September, two hall meetings were allowed in Madras where the organisers asked me to address the gathering. One of them was presided over by Shri Rajmohan Gandhi. In the other meeting, Mr. Shanti Bhushan was to participate, but the permissions granted by the Police will show under what restraints and in what an oppressive atmosphere the meetings were to be held. Here is the original permission granted by the Commissioner of Police, Madras:

> "Proceedings of the Commissioner of Police, Madras Present: Thiru K. Chenthamarai. No. 1188/S. B. II/76 dated 13-9-76. Re: Application dated 13-9-76 from Thiru R. Sankaranarayanan, Secretary, Citizens for Democracy, Tamil Nadu, requesting permission to hold a meeting on 19-9-76.
>
> ORDER:
>
> Permission is hereby granted to Thiru R. Sankaranarayanan, Secretory, Citizens for Democracy, Tamil Nadu, to hold a meeting on the proposed Constitutional amendments, on 19-9-76 between 10-00 hours and 14-00 hours at L. R. Swamy Mandapam, T. Nagar, Madras-17, without any mike outside, and subject to the condition that 'emergency', 'President's rule,' '20-Point Programme,' 'Prime Minister of India,' etc. are not criticised.
>
> *for* Commissioner of Police 13/9."

When the Secretary showed me this order, I thought I should have some clarifications. There may be certain things like the 20-point programme which I may appreciate. Why should I be debarred from saying that? When I discuss the constitutional amendments, am I not expected to discuss the provisions of the Constitution relating to "emergency", relating to "President's rule" and relating to "the role of the Prime Minister"? I wanted to ascertain from the person who gave the order as to what its implications were. I can understand "emergency", "President's rule", "20-point programme" and "Prime Minister", but what about the last item "etc."? It means I cannot discuss anything else. The reply I got was that if I discuss the constitutional provisions relating to these things, it will be a reflection on the present situation and so, I cannot discuss them. About "etc." the reply was that "etc. is liable to the interpretation of the police"! I have heard Government orders and laws being interpreted by courts. But here is a new situation that the police will interpret the orders and the regulation! I have got this order in original before me. You can imagine how much of free and frank discussion could have been possible by the opposition who do not agree with the point of view represented by the Swaran Singh Committee or in this amending Bill. Therefore, there has been no free and frank discussion.

The press are publishing certain reports now. But earlier what was the position? We held a civil liberties conference in Madras which was addressed by Shri K. Santhanam, Shri

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Hegde, Shri Govinda Swaminathan, ex-Advocate General and myself. A five-page press report was written that the meeting took place on such and such date in such and such hall, these were the persons who addressed the meeting and these were the views expressed by them. This was sent to the press. But the censor struck off the entire thing, saying "not for publication".

Last week, I was asked to write a series of articles for our party organ "Kazhagakkural". I wrote an article about the Constitution (Forty-fourth Amendment) Bill. Before dealing with the clauses, I wanted to give the background as to what the Constitution was meant for, when it was enacted, etc. All these things I wrote. I have got here the original in Tamil. I will give the English translation. I will not change anything, my friends here who can read Tamil can see afterwards whether I have been faithful to the original or not. I said, "The Constitution (Forty-fourth Amendment) Bill is going to be placed for consideration on 25th October at the ensuing session of Parliament." That was cut off and not allowed to be published. Then I wrote: "On 7th October, at a public meeting in Bombay, the Minister for Law, Shri Gokhale, has said, that he has an open mind and that Government will not rush through this amendment." That is the second paragraph. It was struck off. Thereafter, it was mentioned that Mr. Gokhale said in Bombay, that the Opposition parties, instead of expressing their doubts in public, should discuss the matter with the Government. It was not allowed.

Then I referred to the letter sent by me in August to the Minister of Parliamentary Affairs in which I said:

> "Hence it will be desirable to put the proposals of the Swaran Singh Committee along with the other proposals from other parties to a wider debate among the public and to ascertain their consent by a referendum or an election on those specific issues.
>
> In the circumstances stated above, I feel I shall be in a position to hold discussion with the Law Minister only after placing the tentative proposals for consideration of the General Council of the DMK Party and having a free debate with the general public. I wish the Central Government will create an early opportunity for such a full consideration and free debate of the various proposals to amend the Constitution."

The letter referred to was also completely cut off.

I also said that all the other parties had some discussions. I said that "I am not here to say that the Constitution should not be amended." I also narrated how the 395 clauses in the present Constitution were adopted by the Constituent Assembly after considering it for 3 years and after going through 7600 amendments or so. I gave details as to how during the 10-year period between 1950 and 1960 the Constitution was amended 8 times and in the next decade 15 times and 19 times subsequently. The entire article was cut off and put under one sentence: "Not For Publication."

This was what happened to my article for my own party paper, for which I was ready to take the responsibility and to face the consequences. It was not allowed.

In Bombay there was a meeting addressed by Mr. Chagla, Mr. J. C. Shah, Mr. Tarkunde and others. The report about it came in the "Times of India" of Bombay. It was translated and sent for publication by a Tamil fortnightly, "Tughlak". It was not allowed.

SHRI S. A. SHAMIM: The idea probably was that it was already published. Why publish it again?

SHRI SEZHIYAN: Mr. Gokhale has been telling us: "You have been very vague. Why don't you be very precise".

I have before me "Comments on the Constitution 44th Amendment Bill" by K. Santhanam who was in the Constituent Assembly and who, by no stretch of imagination, can be coupled with others. He has been a freedom fighter since 1920s and very actively associated with the making of the Constitution. He wrote these comments on 7-9-1976, without any aspersions. He started from amendment No. 1. He said against it: "I have no objection to this." About Amendment No. 2: "Not objectionable from abstract point of view, but...." etc. Amendment No. 3: "I have no objection to this." He gave his opinions in this manner in respect of all the 59 amendments. He sent this comment to as many as 100 newspapers. Not a single newspaper was able to publish it. Therefore, my first submission is that no free debate has been made possible. Though those who introduced this amendment, or the Prime Minister, or Shri Swaran Singh, might have been desirous of having a national debate, in the present case, it has not taken place. I do not know where to put the blame, but the fact is that it has not taken place.

Then I come to the mandate given by the people in 1971. Taking the election results of 1971 and the composition of the House thereafter, it has been claimed that we have got the mandate from the people. I can claim that I am also a party to that mandate in 1971, because I was at that time along with Congress (R). I am not against Constitutional amendments, as such, even now. You must remember that the DMK Party supported the Twenty-fifth and Twenty-sixth (Amendments) Bills to the Constitution. Therefore, we are not against any of the progressive economic measures that you are bringing. You say that you got the mandate of the people in 1971. Why did you not use it immediately? Why did you wait for more than five years? Did you at that time anticipate that there would be an emergency after the end of those five years, when you could have a special session and pass it? Unless you had some premonition or astrological prediction, why did you wait till the five-year period was over? It is a fact that you failed to implement them during the five-year period. Then, I differ from my friends on one point. I do not think that on an important issue as the Constitutional amendment, Parliament can always be very cocksure that it represents the will of the people.

SHRI VIKRAM MAHAJAN (Kangra): What is the other test?

SHRI SEZHIYAN: Take, for example, the Australian Constitution. If they want to amend the Constitution, they have first of all to get a majority in both the Houses. Once it is passed by the Federal Parliament, then it has to be referred to the people for referendum.

SHRI VIKRAM MAHAJAN: What is the population of Australia?

SHRI S. A. SHAMIM: Then he will ask about the climate and geographical position of Australia.

SHRI SEZHIYAN: If you argue that the population of Australia is small and so it can have a referendum, on the same ground it can be argued that we need not have elections every five years, it is enough only after ten years because we have a huge population and it is costly to go to the people so frequently. On the same analogy, a democratic apparatus is costly as compared to a dictatorial regime. In spite of that, we have given our preference for a democratic system. I do not know what the views of the Prime Minister are, but we stand for a democratic system.

In Australia publicity has to be given to the opposing views on the subject matter of the referendum at the expense of the Government and on a

[Shri Sezhiyan]

certain Saturday they have to go to the poll to find out whether the people would accept the constitutional amendment passed by the Federal Parliament Now I will show how fallacious it is to say that Parliament, once elected represents the will of the people on all issues The Australian Parliament tried to amend the Constitution 32 times when both the Houses passed it by the requisite majority

Out of those 32 times only on five occasions the people accepted it On 27 occasions they rejected the proposals made by Parliament What does it show? It shows how ineffective or fallacious the argument is that Parliament always represents the people, it is not true unless a mandate is obtained from the people on specific issues

SHRI K HANUMANTHAIYA If you adopt that argument, your very argument will also be affected by it as you are also a Member of the extended Parliament and are speaking in that capacity The argument is not consistent with your membership

SHRI SEZHIYAN Even if this had been brought two years earlier, I would have said the same thing I will come to extension of Parliament's life later

In 1973, the Federal Parliament of Australia wanted to take control over prices and incomes which looked very innocuous, but when this measure which had been passed by a majority in Parliament, was put to the people none of the six States in the Australian Commonwealth supported it by a majority It got only 34 per cent of the popular vote there

For what purpose did we get a mandate from the people?

SHRI K NARAYANA RAO (Bobilli) For all purposes

SHRI SEZHIYAN You have not taken pains to know the will of the people, on the other hand you have been gagging the press, banning all meetings, not allowing the Opposition to go to the people and ascertain their views The whole procedure you have now adopted is wrong, it is undemocratic The Opposition has not been given a fair chance to go and ascertain the will of the people I may suggest something more Whey don't you allow me?

SHRI DINESH CHANDRA GOSWAMI (Gauhati) Please do

SHRI SEZHIYAN I do not get the opportunity

In 1963 after the merger of Goa with India, the first general election took place there At that time the Maharashtra Gomantak Party and the PSP got the majority and formed the Government In 1966, a Bill was brought here to ascertain the opinion of the people of Goa, by way of an opinion poll whether they wanted to merge with Maharashtra or remain a Union Territory At that time, Mr Peter Alvares, I think argued very effectively that the Maharashtra Gomantak Party fought the election on the specific issue that Goa should merge with Maharashtra and got the mandate of the people and formed the Ministry

THE PRIME MINISTER, MINISTER OF PLANNING MINISTER OF ATOMIC ENERGY, MINISTER OF ELECTRONICS AND MINISTER OF SPACE (SHRIMATI INDIRA GANDHI) You were not in touch with the situation

SHRI SEZHIYAN The situation changes

SHRIMATI INDIRA GANDHI: I mean the situation as it was then.

SHRI SEZHIYAN: Now it might have changed in Goa.

In 1963, that was the situation.

On 21st November 1966 when the Bill was introduced here the Minister in-charge, Mr. Shukla said:

> "This point has been considered by Government namely what the best method is to ascertain the wishes of the people and then this decision has been taken by Government, and the reason for this decision is as follows. It was thought that in the elections a lot of personalities got involved and the question of personalities also came up and therefore a good and fair decision might not be available if this issue was decided at the time of the general elections or the general elections were to indicate the trend of thinking of the people of Goa. That is why it has been decided to put it through as a separate measure in which no personalities are involved. Only a simple question is posed and the question of parties also does not come in here. This is the fairest way of ascertaining the wishes of the people and that is why this measure is being introduced."

When this question was put afterwards and the Opinion Poll was conducted in January 1967, the people overwhelmingly wanted to keep Goa as a separate entity as a union territory. They did not want a merger. But in 1963 the Gomantak Party got a mandate from the people on this specific issue. Again, only two months later, in March, 1967, when the general elections took place the Gomantak Party came to power. This is what happended in Goa. I need not cite an example of Australia. In your own case of Goa this is what happened. First, when the general elections took place, the people voted for the Gomantak Party which was for merger. When the Opinion Poll was taken, they did not want a merger. Again two months later, when the general elections took place, the Gomantak Party came to power.

I am also with you when you say that the Constitution is not immutable and that it should be changed in view of the experience and the requirements of the changing times. I am not standing in the way. But I want to know whether the present Constitution, as amended from time to time, has stood in the way of economic and social changes. This question was again and again posed in the Supreme Court. In the Keshwanand Bharati case, the Attorney-General could not point out the specific provisions of the Constitution which stood in the way.

After passing the Twenty-fourth and the Twenty-fifth Constitution Amendments after effectively limiting article 31 of the Constitution, we cleared all the way. If there was any impediment, it was the lack of political will.

Why should we have a Constitution? Why is a written Constitution given to a country and that too to a federal country? The Constitution is understood to mean a written, precise and systematic document containing general principles that go to establish regular procedures for the operation of the Government and also to limit its authority. The Constitution is a limited authority; the Constitution is a limited government. Unless there is a limited government, there is no Constitution worth the name. The history of liberty, it is said, is the history of limitations on the Government.

My basic objection to the Forty-fourth Constitution Amendment is that it removes the limitations put on the Government and that it removes the checks and balances on the executive. You may do it with all your best intentions. But once you arm one organ of the State whether it is legislature or executive or judiciary with unlimited powers it becomes a tyrant. Power concentrated at any place, whether it is in a person or a group or party or

[Shri Sezhiyan]

organ, is tyranny by its very definition. After completing the task of presenting this country with a Constitution, Dr Ambedkar said

> "The purpose of a Constitution is not merely to create the organs of the State, but to limit their authority because, if no limitation was imposed upon the authority of the organs, there will be complete tyranny and complete oppression "

Therefore, my basic objection to the Bill in its present form is that you are trying to remove certain limitations, the checks and balances, that were incorporated, and once you remove those limitations, it becomes a tyranny You may not use them, but once tyrannical powers are given in the Constitution, later on, whosoever comes to power can use this very Constitution to subvert the Constitution What happened in the case of Weimar Constitution? They had tried to provide unlimited, unchecked powers, in article 48 and Hitler was able to throw it off, he did not amend the Constitution, he simply used the Constitution to subvert that Constitution

My apprehension is this Why are you trying to take away many of the Acts out of the purview of the courts? When you are trying to say that the Fundamental Rights can be ridden rough shod to implement certain things what happens? You are concentrating powers, you are trying to take away the checks and balances Take for instance, the Ninth Schedule What is the role it has played? What was it intended for?

MR DEPUTY SPEAKER Please try to conclude

SHRI SEZHIYAN Can I take ten minutes more?

MR. DEPUTY SPEAKER That would be too much You have already taken 40 minutes, more than your time of 36 minutes Please try to conclude

SHRI SEZHIYAN. I was talking about the Ninth Schedule What is it meant for? You put any Act under that and thereby take it out of the purview of the courts. Though you started with putting the Land Reform Acts under that, now you have put under that Representation of People Act, Prevention of Publication of Objectionable Matter Act 1976 The Departmentalisation of Union Accounts (Transfer of Personnel) Act 1976, even MISA has been put under the Ninth Schedule As you know, under the provisions of MISA, any one can be arrested and put in jail, *and the Attorney-General of India* has interpreted the provis'ons of MISA to say that a person can even be shot or starved to death once he is inside the jail under MISA Because of the limited time at my disposal I am not able to go through the entire thing

MR DEPUTY-SPEAKER You spent too much of time on the background

SHRI SEZHIYAN Because background is the most important thing in a Constitution (Amendment) Bill

It has been said again and again that Parliament is supreme Though I am a Member of Parliament and I feel elated by this I do not accept that plea The Constitution should be supreme the people of India should be supreme Do not say that Parliament is supreme The same mistake was made in U K In U K Parliament was taken as a supreme body and it committed very many wrongs At one time in U K they handed over everything to Parliament; they could arrest a person, they could prosecute him, they could sent him to jail, at one stage they even went through the election cases If there was any dispute about the elections, it was not decided by a court, as it is done now, but they went to the Parliament for this. I am quoting from May's Constitutional History of England

> **"Scandalous as were the electoral abuses which law and custom formerly permitted, the conduct of the House of Commons, in the trial of election petitions, was more scandalous still Boroughs were bought and sold electors were notoriously bribed by wholesale and retail, returning officers were partial and corrupt But, in defiance of all justice and decency, the majority of the House of Commons connived at these practices, when committed by their own party, and only condemned them when their political opponents were put upon their trial**
>
> The Commons having, for the sake of their own independence insisted upon an exclusive jurisdiction in matters of election, were not ashamed to prostitute it to party They were charged with a grave trust and abused it They assumed a judicial office and dishonoured it This incredítable perversion of justice had grown up with those electoral abuses, which an honest judicature would have tended to correct and reached its greatest excesses in the reigns of George II and George III"

Only after that the Parliament of England left that power I can quote one famous example that of the elec tion of Fox in 1784 where they tried to see that none of the stalwarts of the opposition party were able to enter the Parliament

With regard to the provisions of the amending Bill, it was asked that we should point out where exactly was the wrong thing Now, take for example, Clause 4 There you want to say that in order to implement the Directive Principles the provisions of Part III will be put aside My impression is that it clause 4 as it is in the Bill gets passed the entire part III will get repealed, because every Bill brought in by the Centre will have some socio-economic background It can be ushered in under the cloak of the Directive Principles and all the Fundamental Rights given in part III can be repealed If they are very apprehensive they can still take the property right out of the Fundamental Rights it can remain as a legal right Why are you trying to take away all the other rights given in Constitution?

The basic structure of the Constitution which was propounded in the Keshvananda Bharati case and on the basis of which the Prime Minister's election case was also decided was that if the Parliament is given unlimited power, it can become tyrannical Instead of having a single despot we can have elected despotism Just because it is elected, it does not mean that you can become tyrannical Supremacy of Parliament does not mean concentration of all powers

Supremacy of Parliament in the spheres allotted to it is welcome, but not at the expense of the checks and balances not at the expense of destroying the very basic structure of a democratic Government and a democratic constitution By passing this amending Bill, we will be institutionalising the emergency for eternity to come After passing this, you can lift the emergency, but the emergency would have been constitutionalised or legalised by then I appeal to you not to equate dissent with treason not to equate anti-Government with anti-national When you start eliminating or suppressing dissent, in the end, it would be the dissenter who would be eliminated or suppressed

With these few words, I also want to go on record as the CPM has already spelt it out and the other four parties namely, Congress (O) BLD, Jan Sangh and Socialist Parties have done that we, the DMK do not want to associate ourselves with this Bill, on grounds of procedure and contents It is a very long Bill and I could not go into it in any greater detail The bell is ringing and the time is very short for me and for democracy in this country

MR. DEPUTY SPEAKER: Before I call the next Member from the Congress Benches, I would like to say that I have received the following request from the Minister of Parliamentary Affairs:

> "Since there is a large number of speakers from the Congress, I request that normally a Congress Member may be given ten minutes."

15 hrs.

SHRI DINESH CHANDRA GOSWAMI (Gauhati): This is a very comprehensive Bill. You must be liberal.

MR. DEUPTY-SPEAKER: You may sort it out with the Chief Whip. I hope you will keep this in mind.

SHRI DINESH CHANDRA GOSWAMI: I take it as a privilege to get this opportunity to participate in this Bill of momentous importance.

As I look back to the history of constitutional development, I see that when the imperialist powers challenged the Indian people that we were incapable of framing a constitution of our own, it was Pandit Motilal Nehru under whose leadership we got the first constitution In the independent India we got the constitution under the leadership of Pandit Jawaharlal Nehru which consolidated the freedom and to-day under the leadership of our Prime Minister we are having this constitutional amendment which I feel will give expression to the real content of economic democracy in our country.

Mr Sezhiyan was propounding the theory of basic structure and he was referring to the Australian constitution. *The founding fathers of the* constitution in their debates in the Constituent Assembly took note of these objections and I can do no better than quoting Dr. Ambedkar in this context when a pointed reference was made to him about the possibility of amending the Constitution.

"What I do say is that the principles embodied in the Constitution are the views of the present generation or if you think this to be an over-statement, I say they are the views of the members of the Constituent Assembly. Why blame the Drafting Committee for embodying them in the Constitution? I say why blame even the Members of the Constituent Assembly? Jefferson, the great American statesman who played so great a part in the making of he American Constitution, has expressed some very weighty views which makers of Constitution, can never afford to ignore. In one place, he has said:—

> "We may consider each generation as a distinct nation, with a right, by the will of the majority, to bind themselves, but none to bind the succeeding generation, more than the inhabitants of another country"

went on to say and I admit that is not merely true but he is ablutely true that Dr Ambedkar ferred to the Australian Constitution d this is what he had to say:

> "The Assembly has not only refrained from putting a seal of finality and infallibility upon this Constitution by denying to the people the right to amend the Constitution as in Canada or by making the amendment of the Constitution subject to the fulfilment of extraordinary terms and conditions as in America or Australia, but has provided a most facile procedure for amending the Constitution."

herefore, I feel in this contex making a reference to countries like Australia or such other countries is irrelevant. We have also that famous saying of Pandit Jawaharlal Nehru where he said in very clear terms that the Constituent Assembly or any Parliament is incapable of binding the future generations He said:

> "We shall frame the Constitution, and I hope it will be a good Constitution, but does any one in this House imagine that when a free India emerges, it will be bound down by anything that even this House might lay down for it? A free India will see the bursting forth of the energy of a mighty nation What it will do and what it will not, I do not know, but I do know that it will not consent to be bound down by anything Some people imagine, that what we do now may not be touched for 10 years or 20 years, if we do not do it today, we will not be able to do it later That seems to me a complete misapprehension I am not placing before the House what I want done and what I do not want done but I should like the House to consider that we are on the eve of revolutionary changes, revolutionary in every sense of the word, because when the spirit of a nation breaks its bonds it functions in peculiar ways and it should function in strange ways It may be that the Constitution this House may frame may not satisfy that free India This House cannot bind down the next generation or the people who will duly succeed us in this task"

Therefore, an unlimited power is given to the Parliament and the succeeding generations to determine their own fate But I feel, as I look at the Bill a complaint will come that by this constitutional amendment we have not made any radical changes As I look to the debates of the Constituent Assembly and as I took to the changes that we have brought, I find that all the founding fathers of the Constituent Assembly and the visionary as he was, Pandit Jawaharlal Nehru did apprehend that a situation and time would come when we have to make changes What are the changes we are making? The first is a political change by the introduction of the word 'Socialist' It is not for the first time that this is being done in this House The Constituent Assembly itself had adopted it Dr Ambedkar speaking at the time of objective Resolution which has been the basis for framing the Constitution said

> 'I should have expected some provision whereby it would have been possible for the State to make economic, social and political justice a reality and I should have from that point of view expected the Resolution to state in most explicit terms that in order that there will be social, economic justice, there will be nationalisation of the industry I do not understand how it could be possible for any future Government which belates in doing justice-social, political and economic unless it has a socialistic economy

I find from the debates of the Constituent Assembly that in fact an amendment was moved by Shri K T Shah that in the preamble the words 'Secular and Socialist' should be incorporated One of the supporters was Shri H V Kamath From the debates of the Constituent Assembly I found that the country was confronted with the problem of consolidation of the newly gained freedom There were many forces which were trying to dilute the newly gained freedom The States were not co-operative The Muslim League was not co-operative At that time it was not possible on the part of the leadership to open up a new front in the country between the reactionaries and the progressive forces Therefore, Pandit Jawaharlal Nehru said

> 'If in accordance with my own desire I have put in that we want Socialist State we would have put in something which may be agreeable to many and may not be agreeable to some and we wanted this Resolution not to be controversial in regard to such matters Therefore, we have laid down not theoretical words and formula but rather the content of the thing we desire"

[Shri Dinesh Chandra Goswami]

Why is it that to-day it has become necessary to put the word 'socialism'? It has become necessary because the highest court of the land has completely forgotten this content and they have always interpreted the Constitution in favour of the vested interests and individual rights. Therefore, the time has come when in the preamble which is the mirror of the Constitution, which shows the direction in which the country is going and which spells out the aspirations of the people, we have to lay down clearly that ours is a Socialist State and in future when we interpret any law it must be kept in mind that between the community good and individual rights, preference must be given to the community good.

Shri Sezhiyan took exception to the predominance given to the Directive Principles over the fundamental rights. I find at the same time very many critics have said—why have you brought in a chapter on fundamental duties which is a mere platitude and pious wish? As I look to the Constitution, I find if there has been a pious wish to the teeming millions, it is the chapter on Fundamental Rights and Fundamental Rights alone. We are talking about Right to Propety. We are talking all the time of the right of having business. We are talking of all kinds of rights. Have we been able to create conditions in the country where the common man living below the poverty line is capable of enjoining these rights? When we give predominance to the Directive Principles over the Fundamental Rights, we say that the citizen should have certain duties so that they may impose restrictions on themselves. We want to do it not to erode the Fundamental Rights but to create climate in which the Fundamental Rights may not be the right of a few or may not be the preserve of a handful but of the entire millions of our countrymen, but millions of our countrymen may realise the aspirations of having these Fundamental Rights. Therefore, if we want to give content to this fundamental right, it is necessary that we keep it in Chapter III. It is necessary to create a climate, and it is not possible to create that climate unless we give predominance to the community good over the individual rights, at this transitional stage and also we tell the people that in the discharge of daily duties they ought to act with certain sense of responsibility.

We want the nationalised industries to grow. But how can they grow if the Public Sector is attached with violence everyday? Therefore what we have said is that the citizens must restrain themselves and conduct themselves in a manner so that a climate is created where one may realise one's own aspirations.

The objection to the incorporation of the word "socialism" in the preamble has been threefold. Firstly it is said that the preamble is not a part of this constitution and so it is incapable of amendment. In the Keshavananda Bharathi case however the supreme court on which the critics rely heavily, has laid down that preamble is a part of the constitution. But apart from that even assuming that preamble is not a part of the constitution, what follows? I have not come across any law which bars the Parliament from making any amendment to the preamble. The only effect of the preamble not being accepted as part of the Constitution will be that this parliament will be able to amend it by a simple majority and a two-thirds majority will not be required.

Under the present amendments, directive principles have been put predominant over the Fundamental rights. and Mr. Sezhiyan has argued that this is not a welcome change but it was even the intention of the framers of the constitution to give predominance to directive principles over fundamental rights because the former stands for the good of the community and the latter for protection of the rights of individuals. I quote the words of Shri Jawaharlal Nehru. He said:

> 'The Constituiton lays down certain directive principles of State policy. We agreed to them after a long discussion and they point out the way we must travel. The Constitution also lays down certain fundamental rights. Both are important. The Directive Principles of State policy represent a dynamic move towards certain objective. The fundamental rights represent something static'.

Then he said on Equality of Law as follows:

> 'Here I am reminded that one has to respect the majesties of law. The majority of the law is such that it looks with an even eye on the millionaire and the beggar. Whether it is a millionaire or a beggar who steals a loaf of bread, the sentence is the same. It is very well to talk about the equality of the law for the millionaire and the beggar but the millionaire has not as much incentive to steal a loaf of bread as the beggar has.'

How can we have equality of law if we do not create a climate where the beggar is not compelled to steal a loaf of bread? Unless that climate is created, provisions of equality of law and such other provisions in the fundamental rights are only illusory. The proposed amendments only seeks to create a climate in which the poor persons, persons who are below the poverty-line, may really realise the benefits of the rights which Chapter III of our Constitution confers on them.

Much has been said about the Judiciary. I have before me two very interesting comments about judges. These are from the Constituent Assembly Debates. The first quotation is this:

> 'Now to go back to the Preamble of the Constitution, I find that so far as justice is concerned, the Consituation amply provides for those who adorn the seats of justice. They are better provided for than those who will resort to the Temple of Justice. The Drafting Committee had a soft corner for those eminent dignitaries who will preside in those Temple of Justice and not to the humble votaries in the Temple. As the Constitution was drafted by lawyers perhaps it was inevitable that it should be so.'

That is not a saying from somebody in the congress benches. That is a saying of Shri H. V Kamath In the proposed Constitution Amendment, the judiciary has not at all been affected. But what has been done is that in some matters the Parliament has taken the power to confer jurisdiction upon the tribunals. This is necessary for the purpose of speedy justice and also to see that the case may not be decided by mere technicalities. And thirdly, to see that there may be persons equipped with experience to decide such types of cases. After all, often we have seen that in these courts cases are decided in arbitrary manner on premises other than social justice. Judges are influenced by their ideals and their upbringing and this is not something new. I will just now show how eminent personalities have always thought so. Here I quote one sentence.

> "The way a judge decides depends very often upon his background, his temperament, his ideals and outlook on life. It is these which constitute what the great American judges, Justice Holmes, called the 'inarticulate major premises'."

This is not said by somebody from the congress benches but this is a quotation of Mr. M. C. Chagla who has said this in his book 'Roses in December'.

Our critics speak with one voice when the question of right to property comes. When Parliament acquires

[Shri Dinesh Chandra Goswami]

power to fight vested interests, they change their voices. As I look back on the changes made in the Constitution, I would say this, that we have not done something far-reaching.

But, the founding fathers of the Constitution did envisage at that time that, with the change of society, with the change of the time and with the necessity of giving real content to economic democracy, changes shall have to come. We have tried to achieve it.

I end one more famous quotation from Dr. Ambedkar because we have been told by the other side that we are doing away with what the founding fathers of our Constitution had achieved by framing the Constitution. He said:

> "In politics, we will have equality and in social and economic life, we will have inequality. In politics we will be recognising the principle of one man one vote and one vote-one value. In our social and economic life we shall, by reason of our social and economic structure, continue to deny the principle of one man-one value. How long shall we continue to live this life of contradictions? How long shall we continue to deny equality in our social and economic life? If we continue to deny it for long, we will do so only by putting our political democracy in peril. We must remove this contradiction at the earliest possible moment or else those who suffer from inequality will blow up the structure of political democracy which this Assembly has so laboriously built up."

Therefore, those who believe in political democracy, if they want to maintain this institution so that it may not be blown off by the forces in India, I feel, they should support the contents of this Bill instead of raising a hue and cry.

SHRI O. V. ALAGESAN (Tiruttani): Mr. Deputy-Speaker, Sir, as one who was a Member of the Constituent Assembly. I feel very happy to participate in this debate. There were other eminent people like Shri Hanumanthiya, Shri Shibban Lal Saxena—I do not see him here—and Shri Satish Chandra, Shri Samanta, Dr. Melkote and others. There are three Cabinet Ministers, Shri Jagjiwan Ram, Shri Kamlapati Tripathi and Shri Subramaniam.

I find also another coincidence that when our Constitution was first piloted, it was by a great Maharashtrian, Dr. Ambedkar and now this mini-Constitution is being piloted by another distinguished Maharashtraian. That is also a matter of happiness.

It was Mahatma Gandhi who said way back in 1939 that the Constituent Assembly alone could produce a Constitution indigenous to the country truly representing the people. He said that such a Constitution will not be ideal but it will be real. But, Sir, perhaps we tried to produce a Constitution which was more ideal and less real. If we had followed the advice of Mahatma Gandhi and produced a Constitution which was more real and less ideal, perhaps, we would have had less occasion to come before this House for the modification of the Constitution.

Sir, in our first flush of freedom and independence and in our uttar innocence, through lack of experience, we believed in two things—we put faith in two things—one the rightmindeness of our own judiciary and two, the fairmindedness of the international community. I should like to say that we were disappointed on both counts. If you look at the history of judgements on constitutional amendment and if you look at the history of Kashmir in the U.N. you will find that we were badly let down by both of them.

The question of bringing in amendments is nothing new. It was there, very much present, in the minds of the Members of the Constituent Assembly and, many of the Members in the Constituent Assembly pleaded that the process of amendment should be made easier. They said that at least for some years to come Parliament should have the power to amend the Constitution by a simple majority. They did not want this to be left to the special majority of the House. That was the plea of the Members of the Constituent Assembly then and, Dr. Ambedkar said that he was making—this task as much easier as possible. Unlike,—as somebody quoted,—the Australian or the American Constitution, our Constitution can be amended in a much easier fashion. So, Sir, this idea of amending the Constitution is nothing new. It was foreseen that as and when the circumstances so warrant we have to go in for amendment of the Constitution. Sir, some of the opposition parties themselves were vociferous about amending the Constitution. They, in fact, forget the basic features of our Constitution and wanted to go in for adopting the American presidential form of Government and, as such, it is strange when we have brought this amending Bill they are opposed to it. I am reminded of a Tamil saying which goes as follows:

> "If a pot is broken by the mother-in-law then it is an earthen pot; If a pot is broken by the daughter-in-law then it becomes a golden pot."

In other words, if they want to amend the Constitution it is all right but if we want to amend the Constitution then it is not so all right. This is a very funny situation in which we find ourselves.

Sir, Mr. Samar Mukherjee said that it should be amended by an Assembly which is elected on adult sufferage. What are we! We are exactly that.

Sir, the critics have been beating about the bush and have been emphasising on extraneous issues like Parliament's term having been extended by one year or the Congress Party was returned with only 43 per cent votes, etc. Actually, during the 1971 and 1972 elections we sought the mandate of the people to amend the Constitution. My friend, Mr. Sezhiyan asked as to why then did we not amend the Constitution all these years. This is no argument that we should not do the same this year. We are committed to amend the Constitution and we cannot go to the people without amending the Constitution. We have to amend the Constitution not simply for the pleasure of amending it but because of the real necessity of amending the Constitution.

15.24 hrs.

[Shri Vasant Sathe in the Chair].

Sir,the critics pose themselves as the defenders and upholders of the independence of judiciary in this country. Mr. Chairman, I want to take you back a little in the past and show who denegrated the judiciary in this country. I would recall to you the period when all the opposition parties actually conspired with the holder of the highest judicial office in this country and made him give up his office pre-maturely and contest the Presidential election. So, it was at the hands of the Opposition that the judiciary was denegrated or brought down from its high pedestal. Congress party has not done anything to denegrate the judiciary. We made the judiciary as the highest arbiter. We asked them to decide our various constitutional issues but did they behave or did they fulfil the expectations That is the important question. Let us take the very first amendment. The hon'ble mover of the Bill had occasion to refer to the first amendment. There are various freedoms—seven freedoms—enumerated under Article 10 and one very vital freedom is the freedom of expression and speech. Can anybody by any stretch of imagination imagine that this freedom of expression will include liberty to advocate murder, acts of violence,

[Shri O. V. Alagesan]

etc. Who took that view? We never took that view It was the courts who took that view, that is, this will include freedom to advocate murder and acts of violence It is for the courts, the enlightened courts, on which very enlightened men sit to interpret these provisions in an enlightened manner.

It was for them to say, 'No, this does not include the right to preach violence or acts of violence' They did not do it Again, take the very first amendment On the question of agrarian reform and zamindary abolition legislation, we were committed to it for so many years before the Constituent Assembly was ever thought of If I remember aright, the Madras and Bombay Governments enacted zamindari abolition legislation in 1948 when the Constituent Assembly was through its labours and had not finished its labours So this was the policy to which the Congress stood committed, we stood committed to the peasantry of the country

Here I would like to make a distinction In our country, it is the peasantry not the proletariat that represents the revolutionary force The notion that it is the proletariat that represents the revolutionary force in our country is mistaken In our country it is the peasantry that represents the revolutionary force, because the proletariat here represents vested intersts it is only a conservative force in our country Therefore you will recall when Panditji began his political work, it was among the UP peasantry and not among the proletariat So because we were committed much earlier to this much needed social reform abolition of intermediaries between Government and the tiller of the soil, we got this legislation through But it was struck down by the courts Why? They could have easily interpreted this legislation as within the permissible limits of the Constitution and we would never have had to amend the Constitution It was because of the wooden nature of the interpretation by the courts that we have been provoked into coming before Parliament so often and asking for amendment of the Constitution.

Because my time is limited, I would like to deal with a question which is more present in Tamil Nadu than elsewhere the question of anti-national activities and anti-national associations It is very important from the viewpoint of Tamil Nadu, for all of us who come from Tamil Nadu You know Tamil Nadu has been the home of secession for a long time When I say 'home of secession,' I mean home of the secession movement It was the late Mr E V Ramaswamy Naicker who asked for Dravidistan Now for strategic reasons or very diplomatic reasons, it is true the DMK in a very formal way gave up the demand of secession in 1963 But what is the real fact? The fact of the matter is that even today they have not ceased to do propaganda for secession, they are working very hard for it

I shall quote a few instances *Murasoli* a daily owned and run by the wife of Mr Karunanidhi—I hope I am not wrong—the former Chief Minister in its issue dated 22-1-72 soon after the elections openly argued that the States in India must have the power to secede from the country Immediately after Bangladesh became independent, Mr Karunanidhi called himself the 'Mujibur Rehman' of Tamil Nadu—I do not know whether he will call himself that now or not

In January 1972, the General Body of the DMK meeting in Tanjavur passed a resolution on State autonomy While explaining that resolution to press reporters, Mr Karunanidhi had stated that the demand for State autonomy was similar to the one raised by Shaikh Mujibur Rehman of Bangladesh. 'Mujibur asked for State autonomy; if Ayub had granted it, Mujib would have been satisfied; since Ayub refused to do so, what started as a demand for State autonomy had ended in the division of Pakistan'. This was what Mr. Karunanidhi told the press.

In May 1972, a conference of the DMK was held in Mannargudi. The late Mr. E. V. Ramaswamy Naicker who, till the time of his death, openly demanded separation of Tamil Nadu, participated in that conference. He and several other DMK leaders while speaking in the conference, advocated secession. The DMK Mintsters, including the then Chief Minister, Mr. Karunanidhi, did not pull them up.

There are so many instances. On 23-7-73, Mr. Karunanidhi while speaking at a public meeting at Tirunelveli, warned that the DMK would remain like the phosphorus in water only as long it was the ruling party. Please note. But the moment it ceases to be the ruling party, it would become phosphorus thrown on roof, that is what they say. They are very much accustomed to these things. The speech was reported in *Murasoli* in its issue dated 28-7-1973. In April 1973, in Arcot, the DK which is father of DMK had a conference in which a resolution asking for separate, independent Tamilnadu was passed. *Navasakthi* a Tamil daily published that resolution in its issue dated 12-4-1973; the DMK government did not take any action. The ban on anti national activity and anti national associations has come not a day too soon. I heard. from the opposite benches that anti national activity and anti national associations were equated with quorum for the House, etc. It is not so simple a matter; quorum may be a simple matter.

THE MINISTER OF WORKS AND HOUSING AND PARLIAMENTARY AFFAIRS (SHRI K. RAGHU RAMAIAH): Not that simple.

SHRI O. V. ALAGESAN: I do realise the difficulties of the hon. Minister of Parliamentary Affairs. I mean to say that unless we take strong steps. the evil of anti national associations will grow; even now it has not died down; it has gone underground. So, this change has not come a day too soon.

For another very important reason this amendment represents the hallmark in the history of constitutional amendments. The precedence that we have given to the directive principles over fundemental rights is an important land mark. What was the position when we adopted the Constitution? Fundamental rights seemed to envelop everybody's attention: it was the only one thing. Directive principles were poo-pooed as a matter of pious wish, a manifesto or stating various objectives which were desirable and good but they were not given the importance which should have been given to them. It is good that we find the directive principles being given greater prominence and fundamental rights have been made to take a back seat. It is an important development in the interest of the weaker sections of society and it indicates the way in which we are going to travel. Similarly the question of putting fundamental duties in the Constitution is another landmark. It may look very simple. But as the hon. Mover was saying this has to be translated and has to become a way of life with our people and it should guide the national behaviour of our people. From that point of view the gain is going to be anormous.

It is customary to quote very learned people on occasions like this and I shall also indulge in that. Some people on the other side of the fence raised a hue and cry that we are destroying the independence of judiciary. I would like to quote two people—Mr. Justice Chagla and Dr. Jennings. Mr Justice Chagla said (AIR 1950 Bombay 210):

> "The line to be drawn between the powers of the legislature and

[Shri O. V. Alagesan]

the powers of the court may sometimes be indistinct and uncertain, but that a line exists must never be forgotten. The powers conferred upon the courts of law by our Constitution are immense, but the very immensity of these powers must require of us a wise and unfailing restraint."

It is now for him to examine whether this statement has been lived up to by the judiciary. I leave it to him.

Dr. Jennings said:

"Though no English lawyer would have thought of putting the prerogative writs into a Constitution, the Constituent Assembly did so"—He was referring to the writs of *habeas corpus, mandamus,* etc, —"It is personally of interest to me to discover that some of those who are making the most profit from this exaltation of the prerogative writs are my students. These various factors have given India a most complicated Constitution. Those of us who claim to be constitutional lawyers can look with equanimity on this exaltation of our profession. But Constitutions are intended to enable the process of Government to work smoothly and not to provide fees for constitutional lawyers. The more numerous the briefs, the more difficult the proces of government becomes. India has perhaps placed too much faith in us."

This is the verdict of Dr. Jennings, a very eminent constitutional lawyer and jurist. You can test this Constitution Amendment Bill on the basis of his verdict and see whether we are doing anything wrong. On the other hand, we are trying by these amendments to make the work of the government smooth. Mr. Sezhiyan said that we are removing the checks and balances on the executive. Not at all: we are only trying to make the work of the government smooth.

Since my time is up, I shall revert to what I said in the beginning—our faith in the fair mindedness of the international comumnity. We are precluded from tabling amendments to articles which are themselves not touched by the Bill. That is my difficulty. My request to Gokhale Saheb is, let us omit sub-clause (d) of aricle 51 which says:

"The State shall endeavour to encourage settlement of international disputes by arbitration."

We put it there in our innocence and we have learnt by bitter experience that international arbitration is no good. Without saying anything, let us quietly remove this provision from the Constitution.

With these words, I support the Bill.

DR. KAILAS (Bombay South): Sir, while supporting this Constitution Amendment Bill, I would like to relate the history of the 43 amendments made earlier since 1951, when many of our founding fathers of the Constitution were alive, proving that the Parliament is supreme and has a right to amend the Constitution. If time permits, I shall also explain the amendments which I have tabled.

Article 368 deals with the procedure for amendment of the Constitution. It prescribes that in certain matters like distribution of powers between the Centre and the States or matters relating to the Supreme Court and High Courts, the Bills passed by Parliament must be ratified by not less than half of the State legislatures.

The first amendment to the Constitution was moved in 1951 when Shri Jawaharlal Nehru was alive.

It restricted the operation of Article 13, but it also made the judiciary "Functus Officio" in certain legislations by adding a new Schedule to the Constitution, the Ninth Schedule. The judiciary was barred from examining the validity of any legislation included in this 9th Schedule; and 13 Acts were included under 9th

Schedule in 1951. This was done to accelerate the socio-economic progress of the country. But the time has come now when we must amend the Constitution according to present-day aspirations.

The 17th Amendment had to be moved in 1964 which added 43 additional Acts to the 9th Schedule because of the Supreme Court judgement was given in what is known as the Golaknath Case. In the same way in 1971, the 24th Amendment was adopted. This was followed by the 25th and 26th Amendments to clear the doubts whether the Parliament, in the exercise of its constituent power, can amend the Constituion either by addition, variation or repeal of any part of the Constitution, including the Fundamental Rights. The 24th Amendment also stipulated that the Bill shall be presented to the President who shall give his assent. But the 24th, 25th and 26th Amendments were challenged in the Supreme Court Keshwanand Bharti case and 13 judges sat in judgment. It is unfortunate that 6 voted against and 7 voted for. The order signed by all the 13 judges was that the Constitutionality would be decided according to law later on, by the Constitution Bench as to what is basic structure or Fundamental of Constitution which the Parliament cannot alter.

Reverting back to the chronological order of the amendments, I must say, to convince those who are now opposing the present amendments and who say that Parliament has no right to amend the Constitution, that the Constitution was amended in 1951, 1952, 1954, 1955 (4th and 5th Amendments), 1956 (6th and 7th Amendments), 1959, 1960, 1961 (10th and 11th Amendments), 1962 (12th, 13th and 14th Amendments), 1963 (15th and 16th Amendments), 1964, 1966 (18th, 19th and 20th Amendments), 1969 (21st, 22nd and 23rd Amendments), 1971 (24th 25th and 26th Amendments), 1972 (27th, 28th, 29th and 30th Amendments), 1973 (31st Amendment), 1974 (32nd, 33rd, 34th and 35th Amendments), and 1975 (37th, 38th and 39th Amendments) and in 1976 (40th Amendment). You will see, Sir, that Parliament had amended the Constitution almost every year and no hue and cry was there then by the opposition parties.

History shows that the Congress Government knows the pulse of the nation and hence it brings in amendments according to the aspirations of the people.

The Prime Minister, Shrimati Indira Gandhi has now decided that the judiciary should not come in the way of the socio-economic reforms which she wants to bring in; and hence these amendments have come before us. But without reducing their authority or dignity while redistributing the worth under the present amendments on judiciary between the High Courts or the Supreme Court. An accusation has been made by the opposition members that this is being done in a hurry. The Prime Minister had said almost a year back that if amendments would be moved in Parliament, they must be discussed by one and all and there should be a national debate on those. Since the Prime Minister invited all people to express their opinion, there has been some discussion. Then, the Swaran Singh Committee report was widely published and a national debate has taken place on that and still going on. Government took note of that national debate and came forward with these 59 amendments, which I am now supporting.

It has been rightly said by the Law Minister that we want to establish again that Parliament is supreme. In order to prove that we must pass all these amendments in this section. There is no question of any Constituent Assembly being called for that purpose. I fail to understand why the people accuse the Government of doing this in a hurry.

[Dr. Kailas]

I hope the hon. Minister has seen my amendment where I proposed that family planning should be included in the Chapter of duties of the people, or should be put in Directive Principles. Secondly, Government should force the Planning Commission and the State Governments to ensure that all able-bodied persons are given suitable jobs within a reasonable period. I am proposing that the "right to property" should be deleted, but the "right to work" must be included in the Directive Principles, which is going to stand on a higher pedestal now than the Fundamental Rights. Then alone the Planning Commission and the State Governments will start thinking in those terms. It is no use giving the plea that there is no money and that is why so many unemployed people cannot be employed. We have put both "Prohibition" and "Primary Education" in that chapter. Yet we have not been able to achieve both. So, it is not an argument against putting "Family Planning" as well as the "Right to Work" in the Directive Principles. Unless we include the "Right to Work" in the Directive Principles, we cannot drive away poverty.

So, while supporting all the 59 clauses of the Constitution Amendment Bill, I would request the Law Minister to kindly consider the two suggestions I have made.

SHRI B. R. SHUKLA (Bahraich): Mr. Chairman, a demand has been made by the opposition that these amendments should be put for an opinion poll or referendum. This point of view has been effectively rebutted by the Law Minister and also by many eminent thinkers on constitutional law. sub-mission is question of referring this limited that when the original Constitution itself is not the product of a referendum or opinion poll, where is the question of referring this limited Constitution Amendment Bill to a referendum. Who framed the Constitution? What was the competence and power of the persons who constituted the Constituent Assembly? They were not the direct representatives of the people. In the Constituent Assembly there were nominees of the native princes and representatives elected by the Legislative Assemblies of the various provinces. And these persons who constituted the Constituent Assembly were not specifically given any direction about the manner in which the Constitution was to be framed. So, if the Constituent Assembly was given general power to frame the Constitution of the country, why are Members of Parliament, who have been elected by universal adult franchise, not competent to make the necessary amendments in that Constitution?

The second question that arises is: who constitutes the sovereign power in the Indian political system? Many say that sovereignty in the Indian political system is divided among the judiciary, legislature and the executive. My own respectful submission is that sovereignty, by its very inherent conception, means one single power, that power which has the ultimate and decisive say in all matters of national importance, and that is this Parliament. Parliament, under the Indian Constitution, has the power to control the executive action of the Government by controlling the action of the Ministry, because the Ministry is responsible and accountable to Parliament. If a vote of no confidence is passed, if a vote of censure is passed, against the Ministry, the Ministry is toppled down. If a Judge of a High Court or the Supreme Court indulges in misconduct, he is liable to be impeached and removed by Parliament. Even the President of India who is the exalted head of the State, is liable to be impeached by Parliament. The declaration of war and the conclusion of any international treaty are the exclusive functions of Government, and that Government is accountable to

Parliament. Even State autonomy can be interfered with by the imposition of President's rule. Therefore, if we analyse the various provisions of the Constitution, we will reach this irresistible conclusion that the pith and substance of all political power vests in Parliament and is controlled by Parliament through its various agencies, though the Ministry, through the Judiciary.

Now, the question arises: if Parliament abuses its power, where is the curb? This is the main thrust of the argument of the rightist people all over the country. How is misuse of power controlled in the United Kingdom? If Parliament in England goes amuck, where is the curb? The curb is the increasing political consciousness of the people which is developed through centuries of developing political conventions which have become a part of the habit of the people, of the Government, of the Judiciary. Therefore, my respectful submission is that curb against the misapprehended misuse of power by the majority party in parliament lies in the increasing political consciousness of the people, and not in judicial review as contemplated and canvassed by the opposition parties.

Our Constitution was framed against a certain historical background and perspective. There were people of Princely India who did not like to part with their right of property, they wanted to have monopoly of property. There were persons who had business interests, there were lawyers, there were feudal interests, there were minorities.

The minority Community and majority Community had their mutual suspicion against each other. The service people did not trust the newly formed Government. Therefore, the Constitution, as was originally adopted and framed by the Constituent Assembly was nothing but a compromise document which suited the interests and the exigencies of the time then prevailing.

Now, the question is, after having the experience of more than 25 years of the working of the Constitution, whether there is any necessity for changing the Constitution. In the Preamble itself, there are ideological aspirations of the people enshrined, that is, to ensure, to secure, the political, economic and social justice to all its citizens A developing country like India of any other developing country in the world cannot be emancipated from the centuries-long poverty, ignorance and squalor by a liberal democracy. It is unthinkable to make a social transformation on the basis of an egalitarian society unless socialism is accepted as a goal. Therefore, if this goal was not clearly spelt out in the Constitution, although in quintessence it was contained, it is our duty to make it unmistakably clear to everybody in this country that socialism is the only system wherein lies the emancipation of the people from the centuries-old shackles of poverty and ignorance and that no other system can deliver the goods. It is, therefore, in the fitness of things that socialism is being introduced with a bold and clear vision in the Preamble of the Constitution without any fear from the Opposition.

Now, the question raised is, how are the Fundamental Rights being made safe? There is a hue and cry on that. I would have liked that some intellectuals, if there are any in the Opposition, should have sat here and listened to our speeches. Under article 226, the Fundamental Rights are secure. No change has been made in that respect. It is made clear that the High Court can issue a writ for the enforcement of the Fundamental Rights. It is also provided that for the words "any other purpose", there has been a change introduced. that is, wherever there is any infringement of any statutory right. whether under the Constitution

[Shri B. R Shukla]

or under any law of the land, or, if there is any apprehension about miscarriage of substantial justice, then the High Court is equally empowered to issue a writ.

The writ jurisdiction of the High Court, I respectfully submit, has been so much misused, has been so notoriously misused, by all those who are concerned with the affairs of law-courts that even in matters of transfers, in matters of promotions, in matters of ordinary day-to-day administration, the High Courts have indiscriminately issued interim orders, stay orders, and the administration has been paralysed.

For example, today, the State Legislature passes a law imposing land ceiling or the Parliament passes a law imposing curbs on urban property. Now, even before the ink on the statute book does not become dry, a person goes to the Supreme Court under article 32 or to the High Court under article 226 and files a writ. The moment a writ is filed, without hearing the Government's point of view, an interim order is issued and the case of this nature prolongs for five years or even ten years in the High Court and the Supreme Court. The Parliament is virtually paralysed. We have come with a purpose, with a mandate, to implement certain policies. Our term expires but the case does not end. So. this deadlock has to be removed, if we are serious in bringing about socialist and agrarian reforms in this country. Therefore. a very salutary change is being effected in article 226.

16 hrs.

Now comes the question of banning certain associations and activities of individuals. The law of sedition is in the Indian Penal Code, but under the garb of freedom of speech, the anti-social elements and unlawful organizations in our country are propagating certain things which seek to overthrow the Parliamentary democracy in this country. Therefore, it is in the fitness of things that, in the Constitution, there should be an amendment that Parliament is competent to enact laws banning such anti-national organizations which, by show of force or use of force, want to overthrow the government established by law.

Deployment of the Central forces to the States without the consent of that State, which is sought to be provided for in the Constitution, has been taken exception to by Shri Indrajit Gupta. We know that, when there was the SVD Government, especially in West Bengal, and when CRP was deployed to curb the unlawful activities and to restore normalcy in the State, the matter was challenged in the High Court and, probably, in the Supreme Court also. on the ground that maintenance of law and order was the exclusive function of the State Government and therefore, CRP or BSF could not be deployed to the State without the consent of the State Government. In a country where fissiparous tendencies sometimes erupt, when even stalwarts like Shri Jayaprakash Narayan openly preach rebellion and when State police is controlled, for the time being, by some Government which does not see eye to eye with the Central Government, it is but necessary that the Centre is empowered to deploy its own forces to the State in consultation and cooperation with the State Government, if the State so likes, and even in hostility to the State Government; otherwise, the unity and integrity of this country cannot be maintained. Therefore, this is a very salutary provision.

I now come to Tribunals. My submission is that Tribunals like the Income-tax Tribunal, the Services Tribunal, etc., have worked well. But the only question is in what manner these Tribunals will be constituted. The Tribunals should be so manned as to inspire the confidence of the people in the same manner as the High

Courts and the Supreme Court do, and there lies the rub of the matter. If they are manned by eminent persons who see the difficulties of the administration and who also respond to the need of meeting out even-handed justice to the aggrieved person, it would be all right, and for that, the occasion would arise when Parliament would be considering the Bill constituting those Tribunals. It is premature to say, on this occasion, that there should be a provision for this here. There is one difficulty. There would not be any appeal against the decision of the Tribunals in the High Court, but the Supreme Court retains the power of interfering in the decision arrived at by these various types of Tribunals which are now contemplated and are provided for under this Bill. Throughout the whole country, there would be a chain of Tribunals—Services Tribunal, Industrial Tribunal, Labour Tribunal, Income-tax Tribunal, Land Reforms Tribunal, and so on. When there would be so many Tribunals and the judgements given by those Tribunals will be open to correction only in the Sureme Court, you can understand the difficulties. The majority of the people are poor, and they cannot approach the Supreme Court. Therefore, it is nothing but virtually denying a right to approach the highest court in the State for interference. Therefore, a change is necessary in that direction.

Duties are also sought to be incorporated in this amending Bill. My respectful submission is that although they may be very innocent things, and they may be very noble duties prescribed for citizens, but I fail to understand the rationale behind these except that the boys will cultivate the habit of a good citizen with these ideals. For example, it is sought to be provided that it shall be the duty of every citizen in India to show compassion for living creatures. Now, rats are a menace, so are the insects and pests. If these things are to be shown mercy and compassion, how can they be killed? I am not of the view that these ethical considerations, religious considerations and legal consideration should be woven in the constitutional fabric to confuse people. It has also been laid down that the duty of a citizen should be to observe the principles and ideals which inspired our freedom struggle. Hunger strike for the redress of certain social and political grievances sometimes inspired our freedom struggle, but the Government knows how, resort to hunger strike has led to harassment of the administration. When someone resorts to hunger strike, it will be quoted that it is one of the duties enshrined in the Constitution to be followed. Therefore, my respectful submission is that this chapter about duties should be looked into afresh in the perspective of my submission and considering the far-reaching implications in the near future.

Lastly, these Fundamental Rights are, no doubt, important and every free and democratic country should have respect for them. The Fundamental Rights are valuable, but the Directive Principles cannot be ignored without inviting disaster to the very fabric of democracy and, therefore, it is in the fitness of things that a harmony is sought to be effected between the Directive Principle which are in the nature of directions and the Fundamental Rights which are in the nature of whip to legislatures not to do certain things. Unless, they are harmonised and Directive Principles are given precedence over the Fundamental Rights, my submission is that concentration of power in the shape of monopoly and wealth cannot be broken up and India cannot progress.

SHRI P. R. SHENOY (Udipi): I welcome the Bill that is before the House wholeheartedly.

I support it because it contains certain provisions which are urgently

[Shri P. R. Shenoy]

necessary and certain precepts on which it has become necessary to lay emphasis and uphold, certain principles which, as Members of this august House, we should always fight for.

Reducing the economic disparity, the wide economic disparity between the poor and the rich is the urgent necessity of the day. Certain events in the country have made it necessary to lay emphasis on certain concepts like nationalism and secularism. No one requires any lessons on nationalism or secularism but we see that events are taking place in the country which have necessitated that we should put emphasis on the words 'nationalism' and 'secularism' in our Constitution.

Sovereignty of Parliament and the supremacy of the Judiciary subject only to the sovereignty of Parliament, inviolability of the fundamental rights within the framework of socialism are the principles for which we should always fight and I am very happy that Mr. Gokhale has taken care of all these things and has brought this Bill before the House.

One of the serious objections to the Forty-fourth Constitution Amendment Bill is that it should wait for certain men, men who are under detention and men who are not willing to express their views as long as there is emergency—not that they are not allowed to express their views but they do not want to express their views until there is emergency—and men who will occupy the seats of this House after the next elections. This objection, I feel, is more of a sentimental nature. There is no rationality behind it. In the history of a nation, time and tide wait for no man. We may feel sorry that certain men are not present in the House on this occasion or that certain men do not express their views on this important amendment, but we cannot do anything more than that. The affairs of the country should be carried on as usual.

In the last General Elections the Congress Party made it very clear that it was going to bring about some important constitutional changes if elected back to power and even the opposition Parties made it very clear that if the Congress was brought back to power, it was certain—they never said that it would think about constitutional changes—to make certain radical changes in the Constitution and it was certain that the Congress Party would destroy the property rights altogether. So, it was made very clear to the people that there would be constitutional changes if the Congress was elected back to power and people, in their wisdom, had voted the Congress back to power. And ever since we were elected to power, we have been amending the Constitution. This is not the first amendment Bill that is brought before the House. After the last election, first there was the 24th Constitution Amendment Bill and this is the 44th Amendment Bill. So, in the midst of our other activities which are very important—during this five-year period we had to face many critical questions—we have been amending the Constitution. The piecemeal and the cautious nature in which we have been doing this has taken us a little more time than the usual period of five years. Does it mean that our representative capacity has come to an end once for all and all of a sudden and we cannot fulfil the commitment made to the people? I repeat, Mr. Chairman, the argument that the Constitution Amendment Bill should wait for some men is not at all rational and it should be brushed aside as it has no reason behind it.

I am also against the opinion expressed in certain quarters that we should have a Constituent Assembly or we should convert ourselves into a Constituent Assembly and bring some radical changes in the Constitution by passing a new Constitution. That is not necessary for the present and that is not necessary for the next generation. Therefore, it is not at all necessary to have a fresh Constituent Assembly or to convert ourselves into a Constituent Assembly. Does it mean that we have no power to amend the Constitution? Are we subordinate to the view of the Supreme Court and the views of the few people that this Parliament is not sovereign and it has no power to amend the Constitution? We have the power to amend the Constitution under Article 368 and it is not necessary for us to do anything which is not obligatory on us to amend the Constitution. I request the Government to see that this Bill is passed in the present Session itself as it contains certain provisions such as restrictions on High Courts under article 226 which are to be implemented immediately.

Some people are against the view of the word 'Socialist' being put in the preamble. The argument put forth by them is that the policy of single party should not be imposed upon other parties which may or may not believe in socialism. This argument is quite valid provided we also accept the argument that the Constitution of the country is for all times to come and that it cannot be changed. In my opinion we cannot bind the future generations by our Constitution for all times. We may try to bind the next generation or the generation after that but it will be futile on our part to bind all generations by our Constitution. If some Parliament in its wisdom thinks that the word 'socialist' is not necessary in the Constitution it is open to that Parliament to delete that word 'socialist' from our preamble. We are not of the view that the Supreme Court should hold that socialism is a basic feature of our Constitution and therefore it cannot be destroyed and therefore the word 'socialist' cannot be removed from the Constitution. I am of the opinion that in the eyes of the law no provision of the Constitution is more basic than another. In other words all provisions in the Constitution are equally basic, are equally not basic, it is for the people to decide which provision of the Constitution we should have for the time being and which provision of the Constitution we should change immediately. Therefore, it is not quite reasonable to say that we are imposing the word 'socialist' or imposing the philosophy of socialism on other parties by introducing that word in our preamble. We have been following the path of socialism all these years and it is our anxiety that we should not deviate from this path at least for the next generation.

It is that anxiety which has made us put this word socialist in our preamble. There are some eminent people but they have no contact with the masses: they are of the view that fundamental rights or fundamental liberties are sacrosanct and are inviolable and therefore they should not be subjected to the directive principles. At this stage I must say this. Mr. Indrajit Gupta in his speech said that fundamental rights are not touched at all. It is not correct. Fundamental rights are subjected to all the directive principles of State policy. That is a major change which we have made in the fundamental rights of the Constitution. The fundamental rights are also subjected to certain national interest by introducing a new article, 31 D. We have made some real changes in the Fundamental Rights of Part III of our Constitution but some people are of the view that fundamental rights are sacrosanct and therefore we cannot subject them to the directive principles of State policy.

[Shri P. R. Shenoy]

I agree one should love to have fundamental liberties but fundamental liberty is not an absolute right to do anything. Liberty is right to do anything that is not prohibited by law. All liberties are subjected to some reasonable restrictions. Justice K. S. Hegde said in his book on Directive Principles that there is no real conflict between fundamental rights and directive principles, and fundamental rights should be read in the context of directive principles. But what about the decision given by the Supreme Court in the year 1951 or so in Champakam Dorairaj case? Supreme Court said that fundamental rights prevailed over directive principles. And how can we negative the decision of the Supreme Court except by amending the provision of the Constitution?

It has now become necessary that the directive principles should act as absolute restrictions on the fundamental rights to avoid unnecessary litigation.

One may differ on the point whether the courts should have a say on the issue whether a particular legislation is not really for implementing certain directive principle. I am of the view that it would be more convenient to leave it to the courts to decide whether a legislation brought by this House or by a State Assembly is really for implementation of the directive principles or not. But it is for the House to decide that issue.

There is a complaint that we are encroaching upon the autonomy of the States. Right from the beginning our Constitution has been unitary-biassed. I was not very happy over this position. But, seeing the events which have taken place subsequently, and seeing the way in which many of the States have behaved and have invited President's rule, I now feel that the autonomy of the States should be curbed to some extent. We see that many States have themselves invited President's rule. Therefore, it means that the States themselves are really not against the encroachment of the autonomy of the States.

In fact, the diversity in culture amongst many sections within a State is not very much different from and it is as much a diversity in culture in the country as a whole.

Therefore, in the interest of nation as a whole, there is nothing wrong if we take a few subjects from the State List to the Concurrent List or if the Centre takes the power of sending the army to the State in times of necessity.

One has to give due respect to the courts. The Supreme Court should really be supreme. But, it does not mean that it can question the sovereignty of Parliament. Even the Supreme Court has its limitations. It will be wise on our part to leave all matters of interpretation to courts out of our own will, and at the other end, it would be wise on the part of the Supreme Court to leave all matters of policy and sovereignty to Parliament.

The decision in Golaknath case and Keshavanand Bharati's case have indicated that the Supreme Court wants to champion the view of the minority as against the view of the majority expressed by Parliament We have to change this trend. It is because of this that Article 368 has been sought to be amended. I feel that we are taking a step in the right direction by this move.

In the end, I will not be doing justice if I do not say that there are some loopholes and lacunae in the Bill.

MR. CHAIRMAN: You should have pointed them out earlier.

SHRI P R SHENOY I am not pointing them out at all for the present I have sent amendments and many hon friends also have sent amendments We have sent our views only with a view to pointing out certain loopholes and lacunae in the Constitution Bill

I request the Government to go through these proposed amendments sent by the Members carefully and see that there are no loopholes or lacunae in the present Bill

SHRI JAGANNATH RAO (Chatrapur) Mr Chairman, Sir, I rise to support this Bill,—this comprehensive Bill that has been brought forward to give effect to the Directive Principles in our Constitution which all along have been merely the Directive Principles but never had been acted upon, firstly, because the State Governments had not the resources to implement any of them and secondly because the fundamental rights stood in the way of any legislation which attempted to implement them

Therefore this amending Bill has not come a day too soon Twenty-five years have passed since Independence We have aroused the feelings and aspirations of the people and we have promised them that we would give them a better deal And therefore it is necessary for us to come forward with this Bill to remove such hurdles and obstacles that stand in the way of legislation enforcing the Directive Principles

Parliament has the constituent power to amend the Constitution We have amended the Constitution forty-one times and this Bill, when passed will become the Forty-second Amendment Bill. Therefore it is too late for anyone to say that the Parliament has not got the constituent power and that only the Constituent Assembly can amend the Constitution either in a small way or in a big way

Though the Preamble says that

> "We, the people of India, having solemnly resolved to give unto ourselves the Constitution',

the residuary power does not lie with the people but the power to amend the Constitution rests only with Parliament Mr Seervai, in his Book Commentary on the Constitution of India" stated that it is only symbolic expression but that does not mean that any power is left with the people so that the party in power is required to go to the people and take their mandate to do that We have got the general mandate from the people in 1971 And Government is prepared to amend the Constitution as and when necessary So, the Constitution is not like a sacred cow—not to be touched but only to be worshipped In that event, there would be no progress at all What we think today as adequate may not be adequate tomorrow When this amendment becomes a part of the Constitution new situations may arise in our country and we might feel that the amendment that we pass today has fallen short of the aspirations of the people It is too late for anyone to contend that Constitution cannot be amended

If you go back to 1947, what was the contemporaneous society in existence then? It was feudalistic in character There were Rajas thand Maharajas in the States And our society was based on religion superstition and obscurantism and what was topmost in the minds of the leaders, the great patriots national leaders and eminent men from all walks of life was that they must preserve and consolidate the freedom that was won and to produce such a Constitution which would preserve the integrity and sovereignty of our country That is why greater emphasis was laid on the political aspect though socio-economic philosophy is also embedded in part IV The time has come for us to realise that unless we give economic content its due importance and implement that content and make the people strong

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the political edifice built in 25 years will not be strong. So, this amendment is highly necessary apart from what some persons or groups might say. Nobody can say that the directive principles should not be implemented. What are the fundamental rights? They are only individual rights. What is the property right now left. With the passing of Article 31(c) the property right has no meaning. Everybody has right to acquire, hold and dispose of the property. So, whether we remove 19(1)(f) from the Constitution or keep it is only a moon-shine. It means only a legal right. Therefore, no serious complaint need be made by any member of the Opposition that this fundamental right need not be preserved. It is no longer a fundamental right but a mere legal right. The Constitution of a country is based on the philosophy of that nation—on its political, economic, social and spiritual philosophy. We have borrowed the economic and social philosophy from the Russian Revolution of the 20th century. We have also adopted the philosophy from the English revolution of 17th century and French and American revolutions of the 18th century. We have also adopted their philosophies. If you read the Preamble you will find the words: Justice, Equality, Fraternity, etc They are borrowed from that philosophy. Sir, I would like to say that the Preamble is a golden epigram so nicely worded that the addition of these two words will make it all the more attractive. So, there should be no objection to the amendment of the Preamble and everyone should welcome that fundamental rights are subordinated to the directive principles in part IV. I had sent an amendment to my party office as to why not call the directive principles as basic principles of the State policy. It was said that there may arise some difficulty because in that case every right will have to implement them. My point is whenever legislation is sought to implement any of these directive principles it has priority over the fundamental rights.

Sir, mention has been made about the judiciary and all that. The constituent power vests with the Parliament. If a constitution amendment is passed then it becomes part of the Constitution. Therefore, the Supreme Court has to respect not only the Constitution but also the power of the Parliament to amend the Constitution. The Judicial review does not mean that the power is given to the judiciary to go into the constituality of a constitutional amendment. They can test any Act on the touch-stone of the various Articles of the Constitution and say whether they are valid or not. Sir, the Supreme Court did not challenge the constitutional amendments till 1967. From 1951 to 1967 most of the amendments were upheld by them.

The difficulty only arose when the Supreme Court said that they can go into the question of adequacy of compensation. It is high time that the Supreme Court should realise its own limitations. The judicial review does not give power to go into the constitutionality of a constitution amendment. They can examine other laws on the touch-stone of the various articles of the Constitution.

We are not taking away the power of the Supreme Court and much less of the High Courts. If it is properly understood then there cannot be any complaint from any quarter. Now, the high courts are only given power to go into the question of validity of State laws.

That was my suggestion to the Drafting Committee. Suppose one section of an Act is challenged in a High Court in a particular case and the High Court goes into the question and gives its judgment Later, another section of the Act may also be questioned. Therefore, the validity of the Act is questioned. Hence, I would suggest to the Law Minister to, consider my suggestion. When one section of a particular Act is challenged in a court in a particular case, why not give the State Government the power to ask the Advocate General to move the High Court to go into the validity of the entire Act so that the *vires* of a certain Act of the State Legislature is decided once for all. The petitioner will be given notice so that any observation of the Bench cannot be taken to be *obiter* and once for all the question will be settled. This may at least be considered so that we can avoid the same Act being challenged by different persons at different times.

Now we are taking away the right of a citizen to question a Central law, rule or regulation in a High Court That power is vested in the Supreme Court. But what about the difficulty already pointed out? I read about it somewhere. A man from the south has to come all the way to Delhi to move the Supreme Court. Some alternative arrangements should be made in such cases. Why not empower the High Court to receive such applications and forward them to the Supreme Court? I do not know if I have been understood Suppose there is a man in Trivandrum He has a grievance against a Central Act rule or regulation Now he has to come to the Supreme Court for filing it, under the new proposal So why not make some provision authorising the High Court itself to receive such applications and forward them to the Supreme Court so that he need not come to the Supreme Court to file the application? For hearing he has to come.

SHRI H R GOKHALE: That does not require a constitutional amendment.

SHRI JAGANNATH RAO: I am only putting it to you and asking you to bear it in mind. You have to remove the hardship Or give the High Court also the power to go into the validity of a Central law. When you take away that remedy, you have to give an alternative remedy so that the citizen is not put to hardship.

Then with regard to tribunals, we have taken away certain matters from the jurisdiction of the High Court. But as a matter of fact, if you read (b) and (c), the jurisdiction is enlarged, giving greater scope to the High Court to entertain applications under 226, though we have removed some matters from the jurisdiction of the High Court. The High Court is given a much larger jurisdiction under (b) and (c) to entertain writ applications On that ground, no objection can be raised that the operation of 226 is curtailed.

I quite agree that the ghosts of *Golaknath and Kesavananda Bharati*, these two judgments, are looming large before us. Both are wafer-thin majority judgments, 6 against 5 in one case and 7 against 6 in the other. That is why we have now introduced the two-thirds majority principle. But take a hypothetical case. Four judges hold that an Act is *ultra vires* and three hold that it is *intra vires* Now according to this amendment, it is the judgment of the minority that will prevail Because of the principle of the two-thirds majority, the minority veto will prevail So my suggestion is this While I agree that there should be a clear majority, not a wafer-thin majority, in a case where the majority is thin why not empower the presiding Judge to request the Chief Justice to refer the case to a larger Bench so that a clear majority is obtained? The Chief Justice knows which of the Judges should constitute a Bench, whether it is the High Court or the Supreme Court.

SHRI K NARAYANA RAO (Bobbili) Suppose the majority is equally thin even with the entire Court sitting, how can you resolve it?

SHRI JAGANNATH RAO: Then have more Judges That is what Panditji said in 1951 What happened in America was this. When the Supreme Court struck down certain New Deal legislation, there were two courses open either amend the

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Constitution or reform the Supreme Court. Have more Judges. When you appoint Judges, you know their background. Do not appoint Judges with a conservative outlook.

I entirely agree that the majority should be clear, not wafer-thin. But my fear is that this arithmetical formula may not work. It is for you to consider.

MR. CHAIRMAN: Are you suggesting that if there is a thin majority, it should go to a larger bench and the whole case should be heard again?

SHRI JAGANNATH RAO: It depends upon the difference of opinion in that case. You know that judges confer among themselves before giving a judgment; they know what view a particular judge holds.

MR. CHAIRMAN: What is the guarantee that in the larger bench the majority will not again be thin?

SHRI JAGANNATH RAO: What will happen? Judgment will be published; four judges will be holding against the law and three judges holding in its favour. What will be the position of the case? Minority judgment of three judges will be valid; you are creating a fiction I am only pointing out the difficulty of arithmetical formula which is being introduced. It may not work. I entirely agree that there should be a clear majority, not less than two or whatever the number may be.

The amendment to article 74 is not a major thing which needs criticism, because the President is only a constitutional head and acts on assistance and advice by the Council of ministers. That position is now being made abundantly clear to avoid any doubt. If you say that you are taking away the powers of the President, it is not so because the President is only a constitutional head; he has no discretion to act on his own. By and large the amendments which are being made would not attract any serious objection or opposition from any quarter; we should welcome the Bill. Shri Sezhiyan said that we were upsetting the checks and balances principle; it is not so. Judicial review is there; we are not taking away that power. All that we say is that the Supreme Court cannot act as the third chamber of correction; it cannot sit in judgment over Parliament as regards constitutional amendments. It has certainly the right to go into other laws and give its pronouncements on vires, validity and so on. As regards the constitution, we are the custodians and we are the masters because we represent the will of the people; that is a simple proposition. I am not going to clause 59, removal of difficulties, Mr. Gokhale explained it. It is also contained in the original Constitution, article 392 Therefore 59 does not affect much criticism.

Now that the Constitution is being amended, it should be the duty of the State, both at the State level and the central level, to see that the directive principles are implemented so that economic content is given to them which will fulfil what Mahatma Gandhi said "Poorna swaraj". Unless economic independence comes, political independence has no meaning What does political independence mean to a poor man in a village who still lives below the subsistence level? I congratulate the Prime Minister; the 20 point programme is a serious beginning in the implementation of the directive principles. Some of those points are contained in article 39 Those principles contain the chief elements of socialism Our socialism is different because it is to suit our own needs and genius There could be no theoretical formulation of socialism. One country's socialism differs from another's Under the Indian brand of socialism our main objective is to improve the working condition of the poor people so that they become economically strong, so that the foundations of our democratic edifice are strong to enable them to survive for centuries together.

Our spiritual philosophy is contained in articles 25 to 30, universal love and universal brotherhood; those articles deal with secularism. We have been a secular country; our ancient philosophy contained in Vedas and Upanishads speak of universal love and universal brotherhood. Service of man is service of God—that is our philosophy. Only subsequently, the priestly class came into prominence and the Hindu society came down from the high pedestal with the introduction of the caste system. Our original philosophy was expounded by Swami Vivekananda in 1893 in the World Parliament of Religions at Chicago.

Our Constitution is the best Constitution in the world We have taken the best from each country We have taken the socio-economic philosophy of the Russian Revolution Ours is an amalgam, a synthesis, of all the political systems of the world We should whole-heartedly support the Constitution (Forty-fourth Amendment) Bill

श्री कमला मिश्र 'मधुकर' (केसरिया): सभापति महोदय मुझे इस बात की खुशी है कि सरदार स्वर्ण सिंह समिति की सिफारिशों पर यह संविधान (संशोधन) विधेयक सदन में लाया गया है।

आज से कुछ समय पूर्व जो देश में परिस्थिति पैदा हो गई और एक अजीब ढंग का राजनीतिक वातावरण पैदा हो गया था, उस वातावरण ने जनता को प्रेरणा दी कि वह सरकार के सामने इस बात को रखे कि संविधान में संशोधन लाया जाए और आज यह संशोधन विधेयक लाया गया है।

इस संशोधन विधेयक के विषय में हमारी पार्टी के नेता श्री इन्द्रजीत गुप्त ने अपनी नीतियों को स्पष्ट रूप से आज सदन में रख दिया है। मैं कुछ बिन्दुओं पर ही, कुछ मुख्य बातों पर ही सरकार का ध्यान दिलाऊंगा। मैंने लोक सभा में बहुत से भाषण सुने हैं और मैं यह देख रहा हूं कि ऐसे लोग जोकि पहले कहा करते थे कि संविधान में जोरदार संशोधन होने चाहिए क्योंकि यह संविधान कारगर नहीं है, वही लोग आज इस बात की साजिश कर रहे हैं कि इस संविधान (संशोधन) विधेयक को किसी तरह से टाल दिया जाए। राष्ट्रीय पैमाने पर यह साजिश चल रही है और दुर्भाग्य की बात यह है कि कांग्रेस पार्टी के अन्दर भी कुछ लोग ऐसे प्रस्ताव पास करा रहे हैं और बहुत से लोग प्रयत्न कर रहे हैं कि संविधान सभा को बुलाया जाए या फिर नये इलैक्शनों के बाद इस संविधान (संशोधन) विधेयक को पास किया जाए। इस के लिए बहुत तरह की दलीलें दी जा रही हैं जिस से यह संविधान (संशोधन) विधेयक टाल दिया जाए। इस तरह से इस बिल को टालने की बहुत बड़ी साजिश चल रही है। इस बात की हमें खुशी है कि हमारी प्रधान मंत्री जी ने ऐसा ब्यान दिया है कि पार्लियामेंट सुप्रीम है और उस को संविधान में संशोधन करने का पूरा अधिकार है। राष्ट्र की आकांक्षाओं को ध्यान में रख कर ही उन्होंने ऐसा ब्यान दिया है। जब इस तरह का ब्यान निकलने लगा तो कुछ लोगों ने इस बात की कोशिश की कि यह संविधान (संशोधन) विधेयक पास न हो। साम्प्रदायी संकीर्णतावादी शक्तियों ने, प्रतिक्रियावादी शक्तियों ने और कुछ कांग्रेस

[श्री कमला मिश्र 'मधुकर']

के लोगों ने या इस बात का प्रयत्न करना प्रारम्भ कर दिया कि संविधान (संशोधन) विधेयक को टाल दिया जाए। टालने का अर्थ यह होगा कि 1969 में बैंकों के राष्ट्रीयकरण के बाद और प्रिवी पर्सों के वापस लेने के बाद जो एक प्रक्रिया प्रारम्भ हुई थी, वह प्रक्रिया पीछे चली जाए। तब से जनता का रैडिकलाइजेशन हुआ है और जनता चाहती है कि समाजवाद और सैक्यूलरिज्म आए। इस सारी चीज को आप इस के प्रीएम्बिल में लाए हैं। उस प्रक्रिया को तेज किया जाए और तेजी से उस चीज को लाया जाए। इस प्रक्रिया को उलटने की साजिश चल रही है जिस की ओर हमारे नेता ने भी ध्यान दिलाया है और आग्रह किया है और मैं भी आग्रह करना चाहता हूं। इस सरकार को इस से सावधान रहना चाहिए और तमाम प्रगतिशील लोगों को इस बात का प्रयत्न करना चाहिए कि इस अधिवेशन में यह बिल पास हो जाए और उस के जरिये बीस सूत्री कार्यक्रम और दूसरे कार्यक्रमों को लाया जाए।

दूसरी बात मैं यह कहना चाहता हूं, कि जिस विषय पर हमारे नेता ने भी कहा है और मैं भी उस को दोहराना चाहता हूं और दोहराना इसलिए चाहता हूं कि यह बात सही है कि समाजवाद के नाम और रूप के बारे में बहुत पुराने जमाने से चर्चा चलती रही है और कार्ल मार्क्स और दूसरे कम्युनिस्ट लेखकों ने अपने लेखों में भी लिखा है कि इस का नाम 'कम्युनिस्ट' रखा जाए या 'सोशलिस्ट' रखा जाए। यह चर्चा उस जमाने से चली आ रही है और समाजवाद के नाम और रूप को बहुत गलत ढंग से इस्तेमाल किया गया है। और समाजवाद के विषय में लेनिन ने भी कहा है कि प्रत्येक देश और काल के अनुसार, देश की सामाजिक, आर्थिक परिस्थितियों के अनुसार समाजवाद का स्वरूप और हो सकता है लेकिन कुछ बुनियादी बातें ऐसी हैं जो समाजवाद के मूलभूत अंग हैं, उनको नहीं भुलाया जा सकता है। समाजवाद के बारे में हमारे नेता ने भी आज बताया कि समाजवाद की जो वैज्ञानिक व्याख्या है उसको हम नहीं छोड़ सकते हैं। अपने राष्ट्रीय हित को देखते हुए, हमारा जो इतिहास है उसको देखते हुए समाजवाद के स्वरूप मे हम कुछ फेरबदल कर सकते हैं लेकिन उसके जो मूलभूत तत्व हैं उन्हें विलीन नहीं कर सकते।

अब हम अपने सविधान सशोधन में जो प्रस्तावना दी है उस पर आते हैं तो हम सावधान करना चाहते है कि कहीं आप हमारे देश की विशेषताओं के नाम पर, हमारी सस्कृति, हमारे इतिहास की विशेषताओं के नाम पर समाजवाद के जो मूलभूत अंग हैं उनको न भूल जाये। इस खतरे से हम आपको आगाह करना चाहते हैं। यह जो बिल लाया गया है इसमे समाजवाद और भी स्पष्ट करने की दिशा मे कदम उठाया जाना चाहिए।

तीसरी बात मैं कहना चाहता हूं कि इसमें एक बात यह भी साफ होनी चाहिए कि कौन सी पार्टी राष्ट्रीय है और कौन से राष्ट्रीय कार्यक्रम हैं। आप किन कार्यक्रमों

को राष्ट्रीय मानते है और जिनको आप राष्ट्रीय नहीं मानते उन पर प्रतिबन्ध लगना चाहिए। इस बात पर तो किसी को विरोध नही हो सकता कि हिन्दुस्तान की अखण्डता, हिन्दुस्तान की आजादी और हिन्दुस्तान की प्रभुसत्ता पर किसी किस्म की आंच न आने पाये। इस बात पर तमाम लोगों को एक होना चाहिए। लेकिन सवाल उठता है कि इसके आगे राष्ट्रीयता क्या है? अभी हाल मे प्रधान मत्री जी ने घोषणा की थी कि जिन मुल्को मे आजादी की लड़ाई चल रही है उनकी विकासशील देशों को मदद करनी चाहिए। उन देशो मे एक सवाल पैदा हो गया है और वह यह है कि वहा साम्राज्यवाद विरोधी तत्वो को मदद दी जाए या साम्राज्यवाद के पोषक तत्वों को मदद दी जाये? साम्राज्यवाद का विरोध, ब्रिटिश साम्राज्यवाद का विरोध हमारी आजादी की लड़ाई के साथ जुड़ा हुआ था। धर्मनिरपेक्षता की लड़ाई और आजादी की लड़ाई एक दूसरे से जुड़ी हुई है। क्या हम इन चीजों को अराष्ट्रीय कह सकते है? बार-बार प्रधान मत्री जी कहती है और उन्होंने कोलम्बो मे भी इसको कहा कि राष्ट्रीयता का स्वरूप यही है कि हिन्दुस्तान आजाद रहना चाहता है। इसके लिये हमे साम्राज्यवाद के तमाम तत्वों से मुकाबला करना पड़ेगा ताकि देश मे जो अरबों रुपया खर्च हो रहा है उससे देश का विकास किया जा सके उसके जरिये से विकासमान लोगों को भी सहायता दी जा सके। उन्होंने यह भी कहा कि विकासशील और विकसित देशों के बीच जो व्यापार असतुलन है उसको दूर किया जाये। यह राष्ट्रीयता है। कहने को तो बहुत से लोग अपने को राष्ट्रीय कहते हैं। जनसंघ के लोग भी अपने को राष्ट्रीय कहते हैं और जनसघ के दृष्टिकोण से कांग्रेस और कम्युनिस्ट पार्टी के लोग अराष्ट्रीय है। ऐसे और भी सगठन है जो राष्ट्रीय होने का दावा करते है। इसलिए हमे राष्ट्रीय क्या है अराष्ट्रीय क्या है इसके बीच फर्क करना पड़ेगा और इसको स्पष्ट करना पड़ेगा। पडित जवाहर लाल नेहरू ने भी इस बारे मे बहुत कहा है और हमारी प्रधान मत्री जी भी इस बात को अच्छी तरह समझती है लेकिन हमारा ध्यान बराबर इस बात पर रहना चाहिए। हम लोगों को आशका है कि आपके न चाहने पर भी अधिकारी लोग इस चीज का गलत ढग से इस्तेमाल करेंगे। एमर्जेन्सी मे भी मीसा का गलत ढग से इस्तेमाल हुआ है। हमारी पार्टी के लोगों को मीसा के अन्दर बन्द कर दिया गया। उनका अपराध इतना ही था कि वे बटाईदारों के साथ थे। मैं जानता हू कि आपने बहुत से आई० ए० एस० और आई० पी० एस० अधिकारी प्रधान मत्री को फटी आखो से नही देख सकते। ये उच्चाधिकारी प्रगतिवाद की बात तो करते है, जनतत्र की बात तो करते है लेकिन उसकी आड मे राजतत्र की स्थापना करना चाहते है उसी दिशा मे सोचते और कार्य करते है। ऐसे अधिकारियों के हाथ मे यह पावर जाएगी तो क्या होगा? वे इन पावर्ज का दुरुपयोग करेंगे ऐसी आशका है। मै चाहता हू कि इस प्रकार की जो आशकाए है इनको प्रधान मत्री और ला मिनिस्टर अपने जवाब मे दूर करने की कोशिश करें ताकि सही मानो मे राष्ट्रीयता का विकास हो सके जिस उद्देश्य को लेकर आप सविधान मे सशोधन करना चाहते है उसकी पूर्ति हो सके और उसकी पूर्ति करने मे आप

[श्री कमला मिश्र 'मधुकर']

सहायक हो सके । इसी प्रकार से समाजवाद धर्म निरपेक्षता जनतत्र की ओर हम आग ब सकेंगे और देश प्रगति कर सकेगा । सही मानो मे इन नीतियों पर विश्वास किया जाए और कार्य किया जाए तभी प्रगति की धारणा बनी रह सकती है । प्रधान मत्री जी ने कोलम्ब आदि जगहो पर जो साम्राज्यवाद विरोधी वक्तव्य दिए हैं, उनका मैं समर्थन करता हू । मैं चाहता हू कि इसी अधिवेशन मे इसक पास किया जाए ताकि हम आगे बढ सकें ।

SHRI B V NAIK (Kanara) Mr Chairman, we had the opportunity to discuss the constitutional amendments before within our party forums We could perhaps be more uninhibited at that time But what we say here and now is for posterity So, we have to be a bit more retrospective I think in regard to the details of the constitutional amendments covering 59 articles we will have a greater opportunity later

The hon Law Minister stated that the preamble to the Constitution is like a key to a lock Subjectively speaking I am not at all certain that the key perfectly fits the lock, the reason being that if we have to proceed from a neutrally ideological stage of Sovereign Democratic Republic" to a stage which is going to incorporate ideological content by calling it a Socialist Republic I think the fundamental relations between man and property and man and work will have to undergo changes as they are enumerated in the Fundamental Rights I have to qualify my statement by saying what I have understood of socialism is an objective understanding of a Socialist State

I think the mere removal of the property right from the fundamental rights would fulfil one requirement, and that too a negative requirement needed for a socialist State, an ideologically oriented Socialist State, and that would be a negative fulfilment of the country, namely that it is not what it was, but unless the removal of the property rights of the citizens is substituted by another right, i e, the right to work,—I am not going into the details and the conditions to be attached to that right to work, or how it will be implemented—unless this positive factor is incorporated in our Constitution the right to work as well as the right to livelihhod, this socialist republic of ours, by mere removal of the property right, would have gone only half way

17 hrs

I am saying this taking the cue from Mr Gupta who said that personal property should remain I do not look at the personal property of a petty shop-keeper, of a panwallah, or two or three acres of land of an agriculturist, of a peasant proprietor, as property at all For him his patch of land or the small establishment is a manifestation of the right to work and his right of livelihood

Under these circumstances my first submission in regard to the amendment before us would be that, if from the angle of Statecraft,—after all politics is the art of the possible—if from the point of view of practicality, pulling out the property right and putting it in Directive Principles m Chapter IV, and pulling out article 41 from the Directive Principles and the right to work and the right to livelihood which exists in theory and not in practice were to be incorporated in the fundamental rights, then the apprehension in the minds of people who have become newly propertied due to land reforms, the apprehensions in the minds of nearly three-fourth of our population that this Socialist State is not all distinct from a Communist State would have gone

Since the mechanism of the operation of the State, the Government, through the institution of Parliament and the various wings of Government, remains as it was, I am very clear that we are not deviating from our path of a democratic State. Therefore, I think it is still not too late to bring in this change and assure the vast millions of this country that it will mean only desirable changes in the right direction. As a compromise, therefore, I thought that, since we are touching the Preamble any way, it would be better to state in the Preamble itself what this country is, to indicate the room into which the key of Mr. Gokhale will open by saying in the Preamble itself that here is a country which promises the right to work and the right of livelihood for all the people, and not the power to waste I make a distinction between the right as against the power to waste. After all, the vast economic power of the privileged few is something which they have more than they can use. It is only after all a power to waste, looking at an objective point of view. That much for the Preamb'e and the whole format of the Constitution (Forty1fourth Amendment) Bill.

However much I have applied my mind to this, I still come to this roadblock, for me to psychologically accept that by changing the name into "Socialist Republic", we have really put in, according to the label, the social content in the body of the Constitution. There are very welcome changes in respect of the Directive Principles, very welcome changes in respect of the Fundamental Duties and of course, very welcome changes in rgard to the curtailment of the unlimited power granted under article 19(1), the right to form associations and unions. This has been curtailed in the right direction. But the constant theme that has been recurred here is that the Constitution is not immutable, like the law of the Medes.

Was it the fond hope of the founding fathers, as perhaps some of them expected, that it can be changed tomorrow? It is true that the next generation will not listen to us. But should it not be our endeavour to frame a Constitution which is as durable as possible from our points of view, according to our convictions? If that be so, in view of the submissions which I have made separately in respect of this Constitution Amendment Bill with its 59 clauses touching upon some of the fundamental aspect, may I in all humility submit that a bit more of labouring will be called for? If the political realities in front of us are such that it is not possible to adjourn the decision-making by this august House in such a way as has been suggested already by some of the earlier speakers as well as movers of the motoin to refer it to a Joint Committee, if that is a dilatory process, and since this Lok Sabha itself is in an extended period, I would suggest that it would not be too much if an irrevocable, unchangeable, order is made to the Joint Committee, whoever the wise people they are, so that the Joint Committee, making a precedent by itself as never done before, is able to submit its report within a stipulated time. Why I am suggesting this is that there is a virulent propaganda going on against the Bill from some quarters to the effect that this is aBill which is born out of a Party Committee's sittings and deliberations. Those who are aware of the dliberations of this Committee know how acute was the debate within the Party. But in order to carry credibility with the country as a whole, it could be referred to a Joint Committee; even if a period of about two months were to be granted, it would be a Committee constituted by Parliament, and thereafter, the major sting in their arguments, the wind in their arguments, could be taken out since they would have had the benefit of having been heard, however, brifly. Under these circumstances, I concur with the views expressed by some of the previous speakers, and I commend that the Bill be referred to a Joint Committee.

17.10 hrs

[SHRI ISHAQUE SAMBHALI *in the Chair*]

SHRI PRIYA RANJAN DAS MUNSI (Calcutta—South): Mr. Chairman,

[Shri Priya Ranjan Das Munsi]

Sir, from the core of my heart, I welcome this Bill and I congratulate the law Minister for having brought forward this measure to fulfil some of the aspirations and dreams of our great leaders of the national struggle, specially our great leader Pandit Jawaharlal Nehru. Today a number of great personalities like Shri Mohan Kumaramangalam and Krishna Menon are absent, but I can say, having heard their speeches during the Twenty-Fourth and Twenty-Fifth Amendments of the Constitution, that they would have joined us today, if they were alive, and given their mighty support for this Bill.

This Bill exclusively deals with provisions relating to socio-economic changes in our country. Criticisms have been offered by the Opposition. Though they have deliberately chosen to walk out this morning, they are trying to make parleys outside the House on many aspects, and the criticisms which we have heard from them are not new ones; they were there in 1970 immediately after the dissolution of the House, they were there on the eve of the last elections in 1971, they were there after 1971, they were there before the Emergency, and they are there after the Emergency. The blowing of their harmonium may be quite melodious to them, but to all the patriotic people of this country, they are quite insignificant and we can understand their designs.

First of all, I would like to make one thing absolutely clear. I do not know why Mr. Naik has referred to it as a Party Committee Bill; he feels that the Opposition may think that the Party Committee brought out this Bill and, therefore, there would not have been sufficient involvement of all the forces of this country. If you look at the history of the country from the freedom struggle to the enactment of the Constitution, you will find—and I claim this not from a partisan angle—that the Indian National Congress did give leadership to the country in many crises; not merely from the Party angle but as spokesman of the country they have tried to maintain the balance of the country. The Indian National Congress's aspirations and propositions contained in many Resolutions, before independence and after independence, did give a line and path by which this Government has tried to maintain the sovereignty and integrity of this country. Of course, we have got support from some quarters of the Opposition also. This is not a Party Committee's Bill. The Indian National Congress and the Government, which is a Congress Government, did consider it proper, seeing the situation in the country, to make some amendments in the Constitution to bring about socio-economic changes which we had promised when we went to the poll in 1971. Therefore, in that context, the Bill which has come before us, cannot be treated as a Party Committee Bill. The Bill before the House expresses the views and aspirations of the people of the country.

In the morning, the Law Minister, in his opening remarks, has said that the Constitution is not only a legal document; it is also a political and economic document. In that context, we can say that the Constitution is the document of the people of the country and as such, it is a national document. In that context, we have to examine as to who can express the will of the people, the aspirations of the people, better than the elected representatives of the people. This Parliament is not only competent but also has the responsibility and the duty to fulfil the promise which they gave to the people during the elections with regard to socio-economic changes, to the extent they can. I feel that introducing this Bill at this time in this august House is not at all going to affect the morale of the people, the philosophy, the character and the concept of democracy. They comments which were offered by the opposition in this regard, as I have already said, are old ones and if I am not wrong, they are largely anti-national. If you look at the developments before the emergency, you will find that while we frequently from our party forum and from this House, including the Prime Minister, criticised their methods for dislodging the lawful established Governments in Gujarat and Bihar, at the same time we wanted their suggestions to rectify the situation. However, they were silent. On the contrary, they went of their own and tried to follow the path by which the democracy of the country can be destroyed. Now, they have become the champions of giving us lessons what democracy means and if the Parliament passes this amending Bill, the democracy will collapse. Thus, you can easily imagine and understand the role and the game of the opposition. In that context, I congratulate the hon. Minister and the Committee which went into the details to include the term 'anti-national' in the Bill.

In the morning today, Shri Indrajit Gupta was telling us some of his views about the word 'anti-national'. I will offer my comments about that later on. At the outset, I would like to say that no country, socialist or a developing country, can afford to have such an amount of flexibility in the Constitution which does not say what is wrong and what is right. I think, the greatest blunder that we have made in this country since adopting this Constitution in 1950 is not to make clear to the people, what is anti-national, what is anti-country and what is anti-people. If we had done this earlier, many crisis could have been avoided. Now, that this is being done to curb the anti-national activities in the country, we should welcome this.

Sir, I do not like to make any comment on the other countries, but nobody can deny the tendencies and the activities of the countries surrounding us for the last two decades. Nobody can deny the objectives of the super powers and their attempts to thwart popular regimes through their agencies and organizations in many parts of the developing countries. Nobody can deny from the pages of the history the amount of hostility posed by the super powers and the amount of conspiracies posed by the imperialist forces in many parts of the world, in many countries which are coming up with the people and with their prosperity.

In this context, I feel that such a provision in the Constitution does not create a doubt or a suspicion, but really strengthens the basic morale of the country and gives a clear idea to the people, what is right and what is wrong.

I welcome many of the provisions in the amending Bill including the definition of anti-national, clause 5, amending Article 31(d) of the Constitution. Sir, with regard to the trade union activities, I partly agree with Shri Indrajit Gupta that it might create some doubts. If the Law Minister in his concluding remarks can think of some alternative proposals to make it clear, that would be welcome.

With regard to the anti-national matters, you have rightly explained how a group of people or an association will be treated as anti-national. Some terms may, however, be ambiguous. Why don't you make this provision also in the Constitution that any individual, group of people or an association which directly or indirectly without the knowledge of the Government, or the sanction of the Government, did take in kind or foreign money from abroad and invested for their own purposes without the knowledge of the Government would also be treated as anti-national? If the activities of the right reactionary conspiracies in the country are investigated by an independent impartial Judicial enquiry for the last two decades, you will find that large number of foreign resources and money in the name of trust or an association or a group did influence to disrupt the functioning of the democracy in the country.

[Shri Priya Ranjan Das Munsi]

In that context I feel that apart from curbing the trade union rights, apart from doubting and suspecting the working class character of the country, you better doubt the motive of the foreign agents, you better doubt the designs of the imperialists and nuclear powers in the country. It will help us in the larger context.

With regard to the fundamental duties, I think it is for the first time the Government have really proposed a thing which is a noble one. Rights cannot be enjoyed without performing duties and rights that come without any duties become sometimes useless and they act like a Frankenstein. In that context also I feel that the fundamental duties as they are specified are welcome. Only with regard to the youth I feel that in the Fundamental Duties chapter it seems to have been said that they will cherish and value the noble ideas that inspired our national struggle for freedom. It is no doubt laudable but why do you not then make some provision from that angle in our academic life and educational life from the minor education to the graduate level including the competitive examinations of the country to make it compulsory to build up a future generation of a national character that they have to study and get a certain qualification by reading the national history of the country? I know a few IAS and IPS officers who do not know even the name of Raja Ram Mohan Roy, who do not know the Dandi March of Mahatma Gandhi but they are working as Collectors and Superintendents of Police. I have seen it and I have heard their speeches. They are absolutely ignorant of these things. I feel a country cannot march even for its economic and social development without having a national feeling of its past which we call the national glory. I would like to find what aspect also in the Fundamental Duties. If these things are specifically mentioned, it would be all right.

Another thing has been mentioned and I think in his concluding remarks the Law Minister will clarify it. What does it mean by 'scientific temper, humanism and a spirit of inquiry and reform'? 'Scientific temper, humanism and a spirit of inquiry and reform' can be explained by us in one manner and it will be explained by Prajapita Mahavidyalaya and the International Society for Krishna Consciousness in another way. If you see their pamphlets, the very theme which you have included here, they have included in their literature also and they are explaining it in their own way. What do you mean by 'scientific temper'? Scientific temper is not to start from mass to mass but from the pond to the temple and from the temple to the priest and the highest priest and finally to the society. This is what they say. So if these provisions of the Fundamental Duties chapter are not very clearly spelt out, then these Prajapita Mahavidyalaya and the International Society for Krishna Consciousness which is a CIA sponsored organisation will utilise it for their own ends and you will have greater difficulties in the courts of law. I have seen their pamphlets. They have made it very clear. What do you mean by 'scientific temper of the youth'? They say that the scientific temper of the youth is this and that and in the concluding remarks they make it a communal thing, and nothing more. The RSS also did the same thing. These points should be made very clear . (Interruptions). You are not telling us what you are preaching. You simply say it . .

AN HON MEMBER: It depends upon what they practise.

SHRI PRIYA RANJAN DAS MUNSI: The question is what they preach is enough in this country because you know in this country even for two generations we have to educate the people and we have to educate the country with a greater struggle—till the people remain in illiteracy—for which we are working. Till then you have to depend on the people. You cannot just leave that and say, 'All right, take this and leave that.' So this meaning should be very clearly spelt out.

With regard to the High Courts' and the Supreme Court's interpretation of central laws, I appeal to the Law Minister. Not that I am opposing his idea, not that I am criticising him but I appeal to him on one thing. To-day in your introductory remarks you have said and almost all the Members agree that India is today united with a greater bond of a national heritage, a philosophy of Indian Pattern and all these things. But what is the basic spirit of the Indian philosophy and Indian pattern? To rely on the greater wisdom which helps the civilisation to grow. If you take from the Buddhist philosophy, if you take from the philosophy of Lord Ramakrishna, if you take the philosophy of Sankaracharya, if you take the philosophy of Shri Chaitanya and even if you take the philosophy of Bhakta Hari Das who became a saint in spite of being a Muslim, all of them have said that the greater wisdom is to clarify that there should not be any complex that he is superior or that he is inferior. I do agree that the High Courts and the Supreme Court of the country did create hurdles in many ways in our national life, in our progressive laws and in our socio-economic changes. But there is a greater amount of wisdom also in the High Courts and they have proved the same on many occasions. You were a Judge of the High Court. I request you to tell me if it is not a fact that in many cases of disputes between the Centre and the States, in so far as interpretation of the law is concerned, it is the High Court which proved their wisdom more than the Supreme Court. This is so in the case of many appellate cases. Therefore, I would say that it is unwise to feel that the High Court is not competent enough to decide in the case of Central Law or the High Court has no jurisdiction in this regard. If we recruit judges to the Supreme Court, we do not recruit them from the streets of Delhi They are recruited from out of the High Court Judges.

I do not mind if the role of the judiciary is amended. I am all for the supremacy of the Parliament. If you feel that judiciary claims more power than the Parliament, then there is a class struggle. It is clear that judiciary has taken a path which is not to the liking of Parliament and therefore Parliament had to jump upon in this class struggle. While Parliament tries to adopt a policy for the people whatever jargon you may use 'socialism' etc., the Supreme Court comes for struggle. It means a class struggle. It means that a group of vested interest wants to oppose us. Until and unless we do have the capacity to change the class character and concept of judicial wisdom of the country in regard to the Central Law and the State laws, this will continue. Better rely on the people and human beings and better rely on the wisdom of the interpretation of the Central Law by the High Court. There may be hazards because cases take time and there is delay. That is a different argument. But you may expand the Bench. Leave aside Central Laws. Ordinary cases have been lying in the High Court and District Courts for years together. It is because there are not sufficient numbers of judges. The process of litigation in our country is complicated. The time taken is long for a variety of reasons.

Just to take for granted that the High Court cannot interpret Central Laws will create an inferiority complex. I do not think that the High Court judges are inferior to the Supreme Court judges. If the members of the Committee had examined it from that angle, the Central Law would be found to be for the comfort of the citizens, for the comfort of the applicants, for the comfort of the party which wants remedy. What is the comfort? Suppose I am a citizen from a village of Bihar and I am affected

[Shri Priya Ranjan Das Munsi]

by a Central law, which directly involves the Constitution Shri Jagannatharao made a comment that I should come to Delhi from my village in Bihar to get justice on the Constitutional issue. I want it on my door unless we are financially incompetent to give it. This system will not prove good in this vast country. The poor people cannot afford to go to the High Court. They finish their fates after listening to the judgement from the Sessions Judge. Upper Middle Class people go to the High Court. Only the top class consider the Supreme Court as their God. If you do not consider the problem of the poor people, it is basically opposed to the view of the people that this country is proceeding to secularism/socialism. If the law is not giving interpretation of justice at a stage which the people of poor class can afford, then it is not effective at all. This is my submission to the honourable Minister so far as the Central Law is concerned.

Sir, with regard to right to property, much has been discussed on this issue in this House. I also feel this way. The moment we say socialism in the preamble the first question which strikes me as a young man of this country is: what do we mean by socialism? This morning we heard the speech of Shri Indrajit Gupta. Hitler said national socialism. We say democratic socialism. I can understand that there are lot of interpretations but I do not think that Government will have any doubt with regard to the correct interpretation of the word socialism. We have heard what our beloved leader and Prime Minister Mrs. Indira Gandhi has said. We know the clear interpretation given by Jawaharlal Nehru without any ambiguity that socialism is a scientific process. It is very clear. Pandit Nehru had no doubt about the interpretation of the word socialism and what socialism means. Pandit Nehru knew the pulse of the country. In Avadi we said not socialism but pattern. In Bhubaneshwar from pattern we came to 'ism'. The ladder from 'pattern' to 'ism' took these years from 1954 to 1964, 10 years, and from ladder to ism, and then to implement 1/100th of it, it took us to 1969 to be done by Mrs. Indira Gandhi, and that too, by creating a revolution in the party. It is not an easy game. It is not an easy thing. If socialism is a subject from Class I to M.A. or M.Sc., if that is the total syllabus of socialism then we have only completed the kindergarten course and we have to go through the rest of it yet. We completed this kindergarten course when we took over the 14 banks. Now we have to educate the people, we have to educate the trade unions, we have to increase production. Even Lenin could not achieve socialism after the revolution. I am sure hon. Members will agree with me. Even Mr. Mao Tse-tung could not afford it.

So, Sir, I do not think socialism will come from the parliament by legislation or by the sweet word of the preamble. We understand that it is a process. It is a systematic development. What Pandit Jawaharlal Nehru dreamt was this. He categorically stated about the process, what is the stage-by-stage process and so on. It is very clearly mentioned and in the Indian context everybody knows what socialism means.

The biggest challenge faced by Pandit Jawaharlal Nehru and now by Mrs. Indira Gandhi has been with regard to fostering this ideal of socialism and to strengthen and keep alive parliamentary democracy in this country. That is the greatest challange now for us. There cannot be any move or any method which departs from the parliamentary system of this country. If on any day there is any method which is mooted in this country which will directly or indirectly amount to even a slight deviation or departure from the system of parliamentary democracy, I tell you Sir, from the floor of this House, that will be the day of doom and the fatal day for the country. There are certain forces which are still active inside the House and outside the House and they want to do things in a way which would make complete departure from the existing system without doing any rectification or any modification of the system; they are not the friends of the country; they are the anti-nationals of this country. The Government has shown the courage and the wisdom to bring in such a bold and courageous measure and those who brought this measure should be considered as the greatest patriots of the country, for all time to come.

With regard to the right to property I remember the speech of the Prime Minister which she made in 1971 when the property issue came up before us at the time of the Bank Nationalisation case. What do you mean by property? Are the property-owners the millions of this country or a few individuals of the country in the real sense of the term property? I am not talking of property of the panwalah or jhuggi-jhompriwalah. I am talking of property in the real sense of the term, property by which a person can say, he can generate something tangible, something productive. I am talking about that type of property here. How many people of this country have that type of property. I don't mind; if you want, you keep the right to property, but then give a restrictive meaning, put a restrictive term, say which are the properties which are fundamental and which are not fundamental, which are essential for the people and which are non-essential for the people and so on. Otherwise we will find that there is again a greater misunderstanding, again a confusion, again a controversy in the country. Do the Birlas have any feelings in regard to the word democracy or socialism in the Preamble? No. Do the Goenkas have any feeling in regard to the word democracy or socialism? No. They say that in the Gita there is a famous statement made by Lord Krishna to Arjuna that truth is power.

In the morning they swear in the name of God that truth is power but the moment they enter the trade market, they forget it. So, Gita is sacred to them in the morning but in the trade market, it is not practised.

So, the Constitution of our country will be sacred to them the moment it will be passed. But, in practice, it will not be so unless the Government is very strong. They will not obey it. Who will obey? Did Goenka listen to the call of the emergency on the Twenty-Point Economic Programme not to close down the factories? He closed down the National Tobacco and he retrenched the people; he closed down the Vasanti Cotton Mills fifteen days back and he then started saying that he will go on closing down the factories. What is the remedy for this?

In national term, it has been specifically mentioned that if there is destruction, in the public interest, you will punish those responsible. But, where is the provision by which the sufferers at the mercy of the monopolists will be protected? Where is the solution for that? Is there a solution? The Preamble in regard to socialism will remain only as a sweet word. There is no clear-cut definition or guideline at all. I feel that the Law Minister should consider this point also.

In conclusion I would like to submit that let this Bill be passed after having heard all the Members and let this Bill begin a chapter in the history of a new era of social change and progress. Let this Bill make a breakthrough in the national and socio-economic advancement of the country and completely frustrate the design of those who wanted to remove Mrs. Gandhi from power and those who tried to destroy the parliamentary system in this country, being in the hands of the imperialists or colonialists.

With these words I conclude that let the Bill be passed without any controversy and confusion. Unless there is a departure from the existing

[Shri Priya Ranjan Das Munsi cd.]
system, there would be no Parliamentary system surviving in this country.

सरदार स्वर्ण सिंह सोखी (जमशेदपुर) : चेयरमैन साहब, मैं इस बिल का दिल से स्वागत करता हूं। यह जो 44वां कांस्टीट्यूशन अमेंडमेंट बिल लाया गया हैं यह बहुत अच्छा बिल हैं और बहुत ऐन मौके पर लाया गया हैं। इसलिए मैं सरकार को बधाई देता हूं। 1922 में महात्मा गाधी और हमारे बड़े-बड़े बुजुर्ग लीडर्स ने कांस्टीट्यूशन के बारे में जो कल्पना की थी यह उसी को पूरा करने वाला हैं। डा० राजेन्द्र प्रसाद, पंडित जवाहरलाल नेहरू और श्री अम्बेडकर साहब ने हमारे कांस्टीट्यूशन की ड्राफ्टिंग की थी और डा० राजेन्द्र प्रसाद ने तो हमारी कांस्टीट्यूशन असेम्बली की सदारत की थी। नेहरू जी ने इसके बारे में कहा था कि इलेक्शन शुड बी आन दी बेसिस आफ एडल्ट फ्रेंचाइज।

1946 में जब एटली गवर्नमेंट ने जो कि ब्रिटिश गवर्नमेंट थी इस बात को माना कि हिन्दुस्तान को किस किस्म का राज दिया जाना चाहिए उसके बाद कांस्टीट्यूशन बनाने के मामले में बड़ी दिक्कतें आयीं और 1949 में जाकर यह कांस्टीट्यूशन बना। हालांकि कांस्टीट्यूशन को उस वक्त के बहुत सारे सवालात को ध्यान में रख कर बनाया गया था और इसको बनाने में पूरी कोशिश की गयी थी कि जुडीशियरी अपनी जगह पर रहे, उससे किसी किस्म का पार्लियामेंट को टकराव न करना पड़े मगर फिर भी इसके बनने के दो साल के बाद ही पहला कांस्टीट्यूशन अमेंडमेंट बिल लाना पड़ा और वह बिल था जमींदारी अबोलिशन के कानून पर जो डिस्प्यूट उठ खड़ा हुआ था उसको दूर करने के लिए। मैं कहूंगा कि बिहार पहली स्टेट थी जिसने कि सबसे पहले जमींदारी अबोलिशन पर कानून बनाया। आर्टिकल 368 इसीलिए रखा हैं ताकि अगर मौके-मौके पर एमेंडमेंट करने की जरूरत पड़े तो किया जा सके। मैं आपको एक दो उदाहरण अमरीका के देना चाहता हूं। एक जमाना था जब वहां पर स्लेवरी को प्रापर्टी कहा जाता था, स्लेव मालिको की प्रापर्टी हुआ करते थे। अमरीका में एक बड़ा मशहूर केस हुआ हैं जिसका नाम हैं ड्रैड स्काट केस। एक स्लेव के मालिक ने जब देखा कि स्लेवरी को एबालिश किया जा रहा हैं तो वह दौड़ा-दौड़ा वहां सुप्रीम कोर्ट में गया और उसने इस एबालिशन को चैलेंज किया। इस पर वहां के चीफ जस्टिस स्टेनी ने डिक्लेयर कर दिया कि स्लेवरी चूंकि प्रापर्टी है इस वास्ते इसको एबालिश नहीं किया जा सकता है। एक दूसरा उदाहरण मैं 1933 का देना चाहता हूं। अमरीकी प्रेजीडेंट रूजवेल्ट ने तीन कानून बनाए, न्यू यार्क मिनिमम वेजिज ला, दी वैगनर लेबर रिलेशंज एक्ट और सोशल सोसायटी एक्ट और सुप्रीम कोर्ट ने एक एक करके इन तीनों को रद्द कर दिया। इससे वहां बडी घबराहट पैदा हुई। प्रेजीडेंट रूजवेल्ट जनता के सामने गए और कहा कि या तो वह उनको रीइलैक्ट करे या सुप्रीम कोर्ट के फैसले को माने। जनता ने 1936 में उन को बड़ी भारी मैजोरिटी से रीइलैक्ट किया और 48 में से 46 स्टेट्स उनके साथ हो गयीं।

ये उदाहरण मैंने आपको इसलिए दिए है कि 1970 के पहले हिन्दुस्तान की सुप्रीम

कोर्ट ने हमने जो दो तीन कानून बनाए थे पब्लिक इंटरेस्ट में उनको रद्द कर दिया था। तब तक बहुत ही आकवर्ड पोजिशन पैदा हो गई थी। तब प्रधान मंत्री श्रीमती इंदिरा गांधी को प्रेसीडेंट को कहना पड़ा था कि वह पार्लियामेंट को डिजाल्व कर दें हालांकि इसके पन्द्रह महीने बाकी थे। उन्होंने पार्लियामेंट को डिजाल्व करवा करके लोगों के पास जाना पसन्द किया और उन से मैंडेट लेना पसन्द किया। उस मैंडेट का नतीजा यह निकला 1971 में यह पार्लियामेंट उस मैंडेट के आधार पर बनी और भारी मैजोरिटी हमारी पार्टी को मिली। फिर 1972 में जब स्टेट असेम्बली के इलैक्शन हुए तब फिर हमारी पार्टी को भारी मैजोरिटी मिली। वह पब्लिक के पास गई है और पब्लिक ने हम को मैंडेट दिया है। अब जो रास्ता हमने अख्त्यार किया है इस में अड़ंगे लगाने से अपोजीशन का काम चलने वाला नहीं है। मैं समझता हूं बिल्कुल ठीक मौके पर और ऐन वक्त पर इस बिल को लाया गया है।

आज क्या हो रहा है। जो लेंडलार्ड हैं, जो ब्लैक मार्किटर्ज हैं, जो स्मगलर हैं, जो ऐंटी सोशल एलीमेंट्स हैं वे कोर्ट्स में चले जाते हैं और स्टे आर्डर ले आते हैं। लाखों केस पूरे भारत में इस तरह के कोर्ट्स के सामने पड़े हुए हैं जिन में स्टे आर्डर ले लिए गए हैं, इंजेक्शन ले लिए गए हैं। अब इनका नतीजा यह हो रहा है कि जो गरीब लोग हैं, जो लैंडलैस हैं उनको गवर्नमेंट जमीन नहीं दे सकी है और बड़ी मुश्किल पैदा हो गई है। पूरी एडमिनिस्ट्रेटिव मशीनरी को इस तरह से ठप्प कर दिया जाता है। यह कुछ कर नहीं सकती है। बड़े लोग हैं जो अभी भी पुराने ख्वाब ले रहे हैं। आज कल कुछ लोग हैं जिन की इस में ज्यादा दिलचस्पी हो गई है कि कोई चीज होने न पाए, उस में देर लगे। यह जो कहा जाता है कि ज्वाइट सिलैक्ट कमेटी में इसको भेज दिया जाए इसका मैं विरोध करता हूं। मैं समझता हूं कि इस मे देरी नहीं होनी चाहिये और जल्दी से इसको पास कर दिया जाना चाहिये।

कोर्ट की स्टे और कई मामलों में भी हासिल कर ली जाती हैं। सरकार किसी अपने नौकर को रिटायर करना चाहती है, बरखास्त करना चाहती है तो जो अपनी आदमी इफेक्टिड होता है वह कोर्ट में चला जाता है और स्टे ले आता है। इसका नतीजा यह होता है कि जो एक दो साल में रिटायर होने को होता है वह रिटायर नहीं हो सकता है। मामलों की सुनवाई भी बहुत देर से होती है। इस तरह से समय गुजार दिया जाता है, समय वेस्ट कर कर दिया जाता है। कचहरियां जो गवर्नमेंट के काम में दखल देती हैं वह दखल बन्द होना चाहिये।

इस के बाद मेरा कहना है कि जो हमारी ऐजूकेशन पॉलिसी है वह नेशनल ऐजूकेशन पोलिसी होनी चाहिये। जब तक ऐसा नहीं होगा देश की प्रोबलम सोल्व नहीं होगी। मेरी मांग है कि इस का कानकरेंट लिस्ट में आना चाहिये। देश में शिक्षा की बहुत जरूरत है। अगर शिक्षा नहीं होगी तो जनता कानूनों को नहीं समझेगी।

आर्टिकिल 368 में पार्लियामेंट को पूरा अधिकार है और जुडिशियरी को संविधान में इंटरफियर करने का कोई अधिकार नहीं है।

[सरदार स्वर्ण सिंह सोखी]

इस में कोई भी क्लाज आगे ऐड करना चाहें तो कर सकते हैं, इस बिल को पास करने के बाद भी । इसलिए इस बिल के पास होने में कोई दिक्कत नही है । बाद में आप फिर संशोधन ला सकते हैं, उस में कोई हर्ज नही है। इसलिये अड़चनों को हटाने के लिये यह बिल लाया गया है ।

मैं खुश हूं कि हमारे ला मिनिस्टर ने 27 सितम्बर को दिल्ली टी० वी० पर इंटरव्यू में कहा कि यह अमेंडिंग बिल सेफ्टी वैल्व है । मैं इन के टैक्नीकल माने बताता हूं । स्टीम बोयलर का सेफ्टी वैल्व समय समय पर अगर चैक न किया जाय और वह जैसा हो जाय तो पूरा बोयलर फट सकता है । इसलिये सेफ्टी वैल्व को बाकायदा देखना होगा । इसी तरह जो कांस्टीट्यूशन है इस की समय समय पर प्रोपर चैक की जरूरत है । सेफ्टी वैल्व क्या करेगा अगर बोयलर की लाइफ ही खत्म हो जायगी । जो बोयलर की लाइफ है उस के बाद सेफ्टी वैल्व भी कुछ काम नही कर सकता है ।

मैंने अपने संशोधनों में कहा है कि ऐक्सपेंडिचर की स्क्रीनिंग होनी चाहिये । इसी तरह मिलिटरी ट्रेनिंग डिफेंस के लिये और नागरिकों के लिये बहुत जरूरी है । कई मुल्कों ने ऐसा किया है । इसी तरह मैंने कहा है कि लिमिटेड प्रौपर्टी राइट होना चाहिये, एक लिमिट होनी चाहिये ।

लोक सभा के टर्म के बारे में मेरा कहना है कि यह 7 साल होना चाहिये । इस विधेयक में आपने 6 साल का टर्म रखा है । मेरी राय में इस को 7 साल होना चाहिये क्योंकि हमारा बहुत बड़ा देश है, 60 करोड़ आदमी रहते हैं हमें समय कहां है कि इसकी सारी प्रोबलम्स के बारे में कुछ कर सकें । इस बारे में अपने संशोधन पर बोलते हुये बताऊंगा कि 7 साल क्यों होना चाहिये । बाद में अगर मुनासिब समझा जाये तो इस पीरियड को फिर कम कर सकते हैं । अभी दोनों सदनों की लाइफ 6 साल की है । मेरी राय में दोनों हाउसेज में कुछ न कुछ अन्तर जरूर होना चाहिये । औड और ईवन होना चाहिये ।

आल इंडिया यूथ फेडेरेशन और स्टूडेंट फेडेरेशन की मांग है कि उनको 18 साल पर वोटिंग राइट दिया जाय । मेरा ख्याल है कि मंत्री जी इस पर जरूर गौर करेंगे क्योंकि जब 18 साल पर हम मेजर मानते हैं, तो वोटिंग राइट देने में कोई हर्ज नहीं है । आप उनकी इस मांग को मान लीजिये । अगर हम अभी नहीं करते तो आने वाली पीढ़ी इस तरह का अमेंडिंग बिल लाएगी ।

सभापति महोदय : जब आपके अमेंडमेंट आयेंगे, तब उन पर बोले ।

सरदार स्वर्ण सिंह सोखी : इसी के साथ मैं इस बिल का समर्थन करता हूं ।

SHRI CHAPALENDU BHATTACHARYYIA (Giridih): Mr. Chairman, we are discussing in this special session Constitution (44th amendment) Bill in the context of rising expectations and in the context of socio-economic changes all over the world Marx said that forms could become fetters. When our Constitution was brought into operation by the founding fathers, 26 or 27 years ago, the socio-economic context and the geo-political context was altogether different from what is obtaining today. We

were then part of a Commonwealth which is crumbling Our integration was not complete, there were divisive forces At that time the Constitution was a sort of a compromise We borowed separation of powers from Montesquieu and parliamentary system of democracy from Britain with whom we had such a long association The founding fathers, the outstanding among them being Pandit Jawaharlal Nehru, said that they could not bind all generations to this Constitution Pandit Nehru expressed his feeling of uncertainty and even ignorance of what the next generation would do because he was aware that great forces were at work in India, India was stirred up and when it happened even Pandit Nehru with his historical perspective felt that he could not foresee the direction of India s march We are passing from chrysalid stage to a phase when we are going towards economic take off technological breakthrough It is a sense of pride that we feel for our country as it is only appropriate that we reassess and review things so as to ensure that the Constitutional changes which are propose will give ample scope for the next generation for its growth and expansion It is precisely what is being done and what this august House is called upon to discuss The main features have been covered by the previous speakers The directive principles take precedence over fundamental rights Along with fundamental rights certain fundamental duties have also been spelt out because it is a truism in politics that you cannot have fundamental rights without corresponding duties In the context of the great changes that are ahead of India to identify the forces of de-stabilisation working from abroad the forces of divisiveness working in India etc, I refer hon members to the book by Mr Harrison *India—The Most Dangerous Decades* That is really a research as to how this divisiveness will operate They attributed the entire thing to another party, but we know better how this divisiveness is going to operate in India In this context, the opposition will agree post *facto* at least the emergency got its justification in what happened in Bangladesh So that process is not over because as I said now that we are going to move into the stage of economic take-off and technological breakthrough now is the most dangerous and critical period in our history

These clauses have been re-arranged and sovereign democratic republic is to be replaced by sovereign socialist, democratic republic' The Greek philosophers drew a distinction between republic and democracy Republic was all right to Pericles of Greece but democracy was a chaotic condition which would rapidly degenerate into mobocracy The point is republic was to be built on the rule of law and a sense of disciplined environment whereas democracy with its mobs bandhs, etc was an attempt at undermining this republic So it is an issue as old as the Greek city State We have to face it on a much vaster scale We are now 600 million and there are these problems So we have to ensure the stability and integrity of India, so that the logic implicit in a democratic republic will have time to work itself out That log Sir is that democracy will invaliab lead India to socialism Well-kro political commentators—Laski for i stance—have raised the question whether capitalist democracy will ever allow itself to be converted into socialist democracy That was in the '30s His books are 'Crisis and the Constitution', "Democracy in Crisis", 'Where do we go from here?" and "The State in theory and practice" They came out during the '30s and the early' 40s India has been answering that question during last six years, and in the affirmative

सभापति महोदय : अब हम सब उठते है और यह हाउस कल 11 बजे फिर बैठेगा।

18 hrs.

The Lok Sabha then adjourned till Eleven of the Clock on Tuesday, October 26 1976/Karitika 4 1898 (S)

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